

TITLE 7**FIRE PROTECTION AND FIREWORKS****CHAPTER**

1. FIRE DEPARTMENT.
2. FIRE SERVICES.
3. FIRE CODES.
4. FIREWORKS.

CHAPTER 1**FIRE DEPARTMENT****SECTION**

- 7-101. Fire department.
- 7-102. Fire chief.
- 7-103. Public safety director duties of fire chief.

7-101. Fire department. The fire department shall be responsible for fire and rescue services within the city. (as repealed by Ord. #2016-13, July 2013, and added by Ord. #2018-5, June 2018)

7-102. Fire chief. The fire chief shall be recommended by the city manager and approved by the board of mayor and aldermen. The fire chief (department director) shall have full responsibility for organizing all fire suppression and prevention functions and emergency medical response and rescue functions, including staffing of personnel, purchasing appropriate equipment, and training of said personnel. The chief shall be responsible for the appointment of all departmental employees, and shall report directly to the city manager. (as added by Ord. #2018-5, June 2018)

7-103. Public safety director duties of fire chief. The fire chief shall serve as director of public safety for the city. The director shall be responsible for coordination of all search and rescue efforts associated with natural disasters, coordination with other governmental entities involving natural disasters, coordination of the city's safety and OSHA compliance functions and coordination of city services for major public events occurring within this community. (as added by Ord. #2018-5, June 2018)

CHAPTER 2

FIRE SERVICES

SECTION

7-201. Objectives.

7-202. Organization, rules, and regulations.

7-203. Records.

7-204. Chief responsible for training.

7-205. Chief to be assistant to state officer.

7-201. Objectives. The fire department shall have as its objectives:

(1) To protect life and property from the adverse effects of fires.

(2) To provide basic life support medical treatment.

(3) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

(4) To respond to and mitigate natural or manmade disasters.

(5) To provide fire prevention and community education. (as added by Ord. #2018-5, June 2018)

7-202. Organization, rules, and regulations. The fire chief shall set up the organization of fire services, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation. (as added by Ord. #2018-5, June 2018)

7-203. Records. The fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work performed. (as added by Ord. #2018-5, June 2018)

7-204. Fire chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (as added by Ord. #2018-5, June 2018)

7-205. Equipment use outside city. No fire equipment shall be used outside the corporate limits with the exception of use permitted under mutual aid agreements or use authorized in the discretion of the senior fire official on duty. Fire equipment may further be used:

(1) If a fire is on city property; or

(2) If, in the opinion of the senior fire official on duty, a fire is in proximity to property owned by or located within the city so as to endanger city property or property within the city; or

(3) If expressly authorized by board of mayor and aldermen. (as added by Ord. #2018-5, June 2018)

CHAPTER 3

FIRE CODES

SECTION

7-301. Shelby County Fire Codes effective within city.

7-302. Fire lanes.

7-303. Key lock boxes.

7-304. Violations and penalties.

7-305.--7-307. Deleted.

7-301. Shelby County Fire Codes effective within city.¹ The fire code, including the NFPA Life Safety Code,² in effect in Shelby County shall also be effective within the corporate limits and shall be enforced by Shelby County and City of Millington personnel. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 *Ch16_6-29-20*)

7-302. Fire lanes. (1) All premises within the city which fire services may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gales, access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire lanes shall be provided for all buildings which are set back more than one hundred fifty feet (150') from a public road or exceed thirty feet (30') in height and are set back over fifty feet (50') from a public road. Fire lanes shall be at least twenty feet (20') in width with the road edge closest to the building at least ten feet (10') from the building. Any dead-end road more than three hundred feet (300') long shall be provided with a turn-around at the closed end at least eighty feet (80') in diameter.

(2) The designation and maintenance of fire lanes on private property shall be accomplished as specified by the fire chief. It shall be the responsibility of the property owner or owners to properly mark fire lane(s) as specified by the fire chief including signs and curb and parking lot striping.

(3) A written document, agreeable to the fire chief and for the benefit of the city may be required for emergency access over all fire lanes.

(4) It shall be unlawful for any person to park or cause to be parked a motor vehicle on, or otherwise, obstruct, in any manner, any marked fire lane

¹Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

in the city. No vehicle shall be left unattended at any time in any marked fire lane within the city.

(5) Loading and unloading on or across any marked fire lane shall be limited to only the time necessary for said purpose and the operator or such vehicle shall always be within reasonable distance of said vehicle for the purpose of removing said vehicle which is preventing complete access to the fire lane by fire services.

(6) Whenever any motor vehicle without a driver is found parked or stopped in duly marked fire lane in the city in violation of this section, the officer finding such vehicle may affix to such vehicle a citation for the driver and/or owner to answer for such violation in accordance with § 15-701 et seq., of this municipal code, and any person, firm or corporation violating any of the parking restrictions imposed by this section shall be subject to all of the provisions of said § 15-703, shall be guilty of a misdemeanor, and shall be fined as provided in said § 15-705.

(7) Whenever any motor vehicle is found parked or stopped in any marked fire lane in the city, or obstructing the same, the officer finding such vehicle may cause the same to be removed by towing or otherwise and the owner or such vehicle shall be liable for the cost of such removal.

(8) Any person, firm or corporation who shall violate or fail to comply with any section of the provisions of this section shall be guilty of a misdemeanor and upon conviction of any such violation other than as provided in subsection (6) hereof shall be fined under the general penalty clause for this municipal code. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 **Ch16_6-29-20**)

7-303. Key lock boxes. All facilities which provide proprietary services, such as, but not limited to, hotels, motels, hazardous, factory/industrial, etc., as well as buildings or parts of buildings served by an internal automatic fire detection or suppression system, having a connection to a central monitoring station facility, shall have a fire key lock box approved prior to installation by fire services. The lock box installed shall:

(1) Be installed after applying for and receiving a permit from fire services.

(2) Be located at or near the recognized public entrance, at a location approved by the fire chief or his designee.

(3) Be located at a height of not less than six feet (6') and not more than twelve feet (12') above final grade.

(4) Be located where no steps, displays, signs, or other fixtures or structure protrusions shall be located under the key lock box which would allow intruders to access the box without assistance.

(5) Contain clearly marked keys to the locks within the building as identified during the plans review and permit process. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 **Ch16_6-29-20**)

7-304. Violations and penalties. Any person, firm, corporation, tenant, occupant or agent who shall violate a provision of the fire code or fails to comply therewith or with of the requirements thereof or cause such action lo be taken in violation of the provisions of this code adopted by reference or locally adopted as modified shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed or continued. Upon being found guilty of such violation, such person shall be punished according to the general penally clause of the city or through injunctive remedies in state or federal court as appropriate. In the event court action is taken, the city shall be entitled to recover from any person adjudicated lo have violated this chapter the city's reasonable attorney fees and litigation costs incurred in bringing the action(s) to enforce the provisions of this chapter. Further, a permit issued to a violator may be revoked. (as added by Ord. #2018-5, June 2018, and replaced by Ord. #2019-17, Aug. 2019 *Ch16_6-29-20*)

7-305.--7-307. Deleted. (as added by Ord. #2018-5, June 2018, and deleted by Ord. #2019-17, Aug. 2019 *Ch16_6-29-20*)

CHAPTER 4

FIREWORKS

SECTION

- 7-401. Definitions.
- 7-402. Permits and permit fees.
- 7-403. Permit revocation.
- 7-404. Permissible fireworks.
- 7-405. Storing and structures.
- 7-406. Limitations on structures.
- 7-407. Location of fireworks outlets.
- 7-408. Parking for retail fireworks sales site.
- 7-409. Additional standards for fireworks retailers.
- 7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks.
- 7-411. Limited time period to use fireworks.
- 7-412. Exemptions.
- 7-413. Violations and penalty.

7-401. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(i) All articles of fireworks classified as 1.4G, or referred to as "Consumer Fireworks," or "Class C Common Fireworks,"

(ii) Theatrical and novelty, classified as 1.4S, or

(iii) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, title 49, Code of Federal Regulations (CFR), parts 171-180.

(iv) Exceptions:

(A) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(B) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(C) Propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter are not considered as designed to produce audible effects.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(c) "Permit" means the written authority of the City of Millington issued under the authority of this section.

(d) "Person" means any individual, firm, partnership, or corporation.

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

(f) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, copartnership, or one (1) or more individual(s).

(g) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-402. Permits and permit fees. (1) It is unlawful for any person to sell or to offer for sale in the City of Millington any item of fireworks without first having secured a state fire marshal permit and a Permit issued by the City of Millington.

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 5 or December 21 through January 2.

(c) The permit fee for retail permits is one thousand dollars (\$1,000.00) per location.

(d) The fee for public displays using Special Display (1.3G) Fireworks is twenty-five dollars (\$25.00).

(e) Schools, wedding groups, businesses, and civic clubs that desire to have a 1.3G Special Display or 1.4G Consumer Fireworks display may obtain a permit to use fireworks for any time of the year by paying a twenty-five dollar (\$25.00) permit fee and obtaining a permit from the city.

(2) A permit to sell fireworks in the City of Millington must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the natural person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the mayor or city manager must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(4) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(5) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of the nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(6) Mobile vendors are not permitted.

(7) Flashing signs are not permitted.

(8) One (1) double-faced sign is permitted; however, each sign face may not exceed thirty-two (32) square feet in area and eight feet (8') in height.

(9) The application must contain evidence that general liability insurance has been obtained by applicant naming the City of Millington as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.

(10) The application must disclose the location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.

(11) Applicant shall pay one hundred dollars (\$100.00) cleanup deposit per location, which shall be refunded after the fireworks season or used by the city to cleanup the retail fireworks site if needed. Failure to cleanup the location may result in forfeiture of the deposit, the incurring of additional cleanup costs and the revocation of the permit.

(12) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance with applicable codes and ordinances. The permit holder must contact the city for a post compliance inspection after the completion of the sales period to verify the condition of the site is in accordance with the terms of this chapter. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*, and amended by Ord. #2020-7, June 2020 *Ch16_6-29-20*)

7-403. Permit revocation. (1) The city may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the city gives written notice.

(a) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city.

(b) When the permittee's application contains any false or untrue statements.

(c) When the permittee fails to timely file any report or pay any tax, fee, fine, or charge.

(d) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the codes director or fire official, or both, may revoke the permit immediately. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-404. Permissible fireworks. (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the City of Millington, except as provided in this chapter, any "fireworks" as defined in § 7-401(1)(a), other than the following:

(a) Those items classified by the U.S. Department of Transportation as 1.4G Consumer Fireworks, or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-405. Storing and structures. No person may smoke within a tent where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, pipes or vapor products (as defined by Tennessee Code Annotated, § 19-17-1508) within a tent where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted sign with the words "Fireworks - No Smoking" in letters not less than four inches (4") inches high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding tent as described in § 7-406. Fireworks must be stored at least ten feet (10') away from windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*, and replaced by Ord. #2020-7, June 2020 *Ch16_6-29-20*)

7-406. Limitations on tents. Only tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used

for power cords that supply power to tents. Electrical wiring inside tents shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No tent from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building. Tents shall not be erected any more than seven (7) days prior to the sale of fireworks and must be removed within seven (7) days after the completion of the sales period. No sleeping shall be allowed within tents and/or stands. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*, and replaced by Ord. #2020-7, June 2020 *Ch16_6-29-20*)

7-407. Location of fireworks outlets. Fireworks sales tents must be no closer than one hundred twenty feet (120') from any occupied building. Fireworks sales are permissible only on property in the FW Fireworks Sales Overlay Zoning District and the sales tent must be located a minimum of forty-five feet (45') from the right of way. Any fireworks sales tent must be at least three hundred feet (300') from a residence.

Retail fireworks sales must also be located on a four (4) lane roadway. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-408. Parking for retail fireworks sales site. The site for a fireworks retailer shall be improved to provide at least ten (10) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. There shall be no parking on the grass or other vegetated areas to avoid a fire hazard. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-409. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the tent and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured in a straight line from tent to tent. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (as added by Ord. #2019-11, May 2019 *Ch16_6-29-20*)

7-410. Unlawful sale to certain children and other persons; unlawful use of fireworks. It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated person. It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale.

It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle. It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group of persons. It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. It is unlawful to launch fireworks onto property of persons who have not given permission. It is unlawful to use fireworks at times, places, or in any manner that endangers other persons. It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the City of Millington Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #2019-11, May 2019 **Ch16_6-29-20**)

7-411. Limited time period to use fireworks. Limited time period to use fireworks. It is unlawful to discharge or use fireworks except for the following time periods:

(1) July 1 through July 4 - The permissible hours are from 10:00 A.M. to 10:30 P.M. except for July 3 when permissible hours are from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1 - The permissible hours from 8:00 P.M. on December 31 to 1:00 P.M. on January 1. (as added by Ord. #2019-11, May 2019 **Ch16_6-29-20**)

7-412. Exclusions. Nothing in this chapter prohibits:

(1) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The sale, transportation, handling, or use of industrial pyrotechnic devices or fireworks, such as railroad torpedoes, fuses, automotive, aeronautical, and marine flares and smoke signals.

(3) The sale or use of blank cartridges for theater, for signal or ceremonial purposes, in athletics or sporting events, or legal power tools.

(4) The transportation, handling, or use of any pyrotechnic devices by the armed forces of the United States.

(5) The use of pyrotechnics in training by the fire service, law enforcement, or similar government agencies.

(6) The use of fireworks for agricultural purposes under conditions approved by the fire chief or his designee.

(7) Supervised displays of fireworks as provided for in this chapter. (as added by Ord. #2019-11, May 2019 **Ch16_6-29-20**)

7-413. Violations and penalties. Violations of any provision of this chapter shall be subject to a penalty of up to fifty dollars (\$50.00)/day per violation. (as added by Ord. #2019-11, May 2019 **Ch16_6-29-20**)