

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. LIFE SAFETY CODE.
2. FIRE CODE.
3. VOLUNTEER FIRE DEPARTMENT.
4. FIREWORKS.

CHAPTER 1

LIFE SAFETY CODE

SECTION

7-101. NFPA 101 Life Safety Code, 2003 edition.

7-101. NFPA 101 Life Safety Code, 2003 edition. As recommended by the National Fire Protection Association, the NFPA 101 Life Safety Code, 2003 edition, is hereby adopted by reference and included as a part of this code.

¹Municipal code reference
Building and utility codes: title 12.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-203. Definition of "municipality."
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Violations and penalties.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,² 2006 edition, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code has been filed with the city recorder and is available for public use and inspection. The International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (as amended by Ord. #11-06-01, Aug. 2011)

7-202. Modifications. The International Fire Code adopted in § 7-201 above is modified by deleting therefrom section 112, titled Board of Appeals, in its entirety; § 7-205 below shall control appeals.

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire code herein adopted, it shall be held to mean the City of Cowan, Tennessee. (as amended by Ord. #11-06-01, Aug. 2011)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline.

¹Municipal code reference
Building and utility codes: title 12.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

7-205. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the uniform fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the city council.

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the International Fire Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the board of mayor and aldermen or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 3

VOLUNTEER FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment, and membership.
- 7-302. Objectives.
- 7-303. Organization, rules, and regulations.
- 7-304. Records and reports.
- 7-305. Tenure and compensation of members.
- 7-306. Chief responsible for training and maintenance.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the city council. Any funds raised by the volunteer fire department as a whole, or by any individual or group of volunteer firemen in the name of the volunteer fire department, and any gifts to the volunteer fire department shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the volunteer fire department. All other apparatus, equipment, and supplies of the volunteer fire department shall be purchased by or through the city and shall be and remain the property of the city. The volunteer fire department shall be composed of a chief appointed by the city council, and such number of subordinate officers and firemen as the fire chief shall appoint, subject to approval by the city council.²

7-302. Objectives. The volunteer fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

7-303. Organization, rules, and regulations. The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules

¹Municipal code reference

Special privileges with respect to traffic: title 15, chapter 2.

²Subject to approval by the city council.

and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department, under such rules and regulations as the city council may prescribe.

7-304. Records and reports. The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on those matters to the mayor or to the city council as they may require.

7-305. Tenure and compensation of members. The fire chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The fire chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the city council.

All personnel of the volunteer fire department shall receive such compensation for their services as the city council may from time to time prescribe.

7-306. Chief responsible for training and maintenance. The chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city council.

7-307. 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 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.

CHAPTER 4

FIREWORKS

SECTION

- 7-401. Purpose.
- 7-402. Definitions.
- 7-403. Permits required.
- 7-404. Permit fee.
- 7-405. Privilege licenses required.
- 7-406. Permissible types of fireworks.
- 7-407. Conditions for sale and use of permissible items.
- 7-408. Retail sale of permissible items -- time limitations -- exceptions.
- 7-409. Public displays -- permits -- regulation.
- 7-410. Regulations governing storing, locating or display of fireworks.
- 7-411. Unlawful acts in the sale, handling or private use of fireworks.
- 7-412. Seizure and destruction of fireworks.
- 7-413. Penalty for violation.
- 7-414. Exceptions to application.

7-401. Purpose. The purpose of this chapter is to provide for the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Cowan, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #10-10-01, Dec. 2010)

7-402. Definitions. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:

(1) "D.O.T. Class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

(2) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings or imports any fireworks of any kind, in any manner into the City of Cowan, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal and the City of Cowan Volunteer Fire Department.

(3) "Manufacturer" means any person engaged in the making, manufacture or construction of fireworks of any kind within the City of Cowan.

(4) "Permit" means the written authority of the Cowan Volunteer Fire Department issued under the authority of this chapter.

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

(6) "Retailer" means any person engaged in the business of making retail sales of fireworks at specified times during the year as provided herein.

(7) "Sale" means an exchange of articles of fireworks for money and also includes the barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as principal, proprietor, salesman, agent, association, co-partnership, or any one (1) or more individuals.

(8) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class C. (as added by Ord. #10-10-01, Dec. 2010)

7-403. Permits required. It shall be unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into the City of Cowan, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from both the City of Cowan and the state fire marshal (as required by Tennessee Code Annotated, § 68-104-101, et seq.), possession of said permits being hereby made a condition prerequisite to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Cowan, except as herein provided. Permits issued under this section are not transferable. (as added by Ord. #10-10-01, Dec. 2010)

7-404. Permit fee. The permit fee for the permit provided for in § 7-403 of this chapter shall be five hundred dollars (\$500.00) and the permit shall be valid for twelve (12) months. However, the Cowan City Council may at its discretion waive the permit fee for any non-profit organization requesting the permit. (as added by Ord. #10-10-01, Dec. 2010)

7-405. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person or state, county or municipal privilege licenses as now or hereafter provided by law. (as added by Ord. #10-10-01, Dec. 2010)

7-406. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Cowan, or ship into the City of Cowan, except as provided in this chapter, any pyrotechnics commonly know as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class C common fireworks; or

(2) 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. (as added by Ord. #10-10-01, Dec. 2010)

7-407. Conditions for sale and use of permissible articles. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Cowan, or used within the city, except as herein provided unless it is properly named to conform to the nomenclature and unless it is certified as "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. (as added by Ord. #10-10-01, Dec. 2010)

7-408. Retail sale of permissible articles -- time limitations -- exceptions. Permissible articles of fireworks may be sold at retail in the City of Cowan and used within the City of Cowan from June 20th through July 5th, and December 10th through January 2nd of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #10-10-01, Dec. 2010)

7-409. Public displays -- permits -- regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the City of Cowan shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the Cowan Volunteer Fire Department, and applied for and received a permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to

holders of a permit for public fireworks display shall be confined to holders of a distributors permit only. (as added by Ord. #10-10-01, Dec. 2010)

7-410. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten feet (10') of where the fireworks are offered for sale is hereby declared unlawful and prohibited. At all places where fireworks are stored or sold, there must be posted signs with the words "fireworks -- no smoking" in letters not less than four inches (4") high. No fireworks shall be sold at retail at any locations where paints, oils or varnishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchasers must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision. (as added by Ord. #10-10-01, Dec. 2010)

7-411. Unlawful acts in the sale, handling or private use of fireworks. (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of sixteen (16) years (Tennessee Code Annotated, § 68-104-112) or to any intoxicated or irresponsible person;

(b) Explode or ignite fireworks within six hundred feet (600') of any church, hospital, asylum, public school or within two hundred feet (200') of where fireworks are stored, sold or offered for sale;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people.

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the City of Cowan for any purpose. This subsection shall not affect display fireworks authorized by this chapter. (as added by Ord. #10-10-01, Dec. 2010)

7-412. Seizure and destruction of fireworks. (1) The Cowan Volunteer Fire Department shall seize as contraband any fireworks other than

"Class C common fireworks" or "special fireworks" for public displays which are sold, displayed, used or possessed in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the Cowan Fire Department shall give notice by registered mail or personal service to such owner, or the fire department's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the fire department shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the Cowan Fire Department, the fire department personnel shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such a seizure, and of the fire department's intention to destroy such fireworks. The notice shall be published once and if no person claims ownership of the fireworks within ten (10) days of the date of the publication, the Cowan Fire Department may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (as added by Ord. #10-10-01, Dec. 2010)

7-413. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than fifty dollars (\$50.00). In addition, the Cowan Fire Department may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (as added by Ord. #10-10-01, Dec. 2010)

7-414. Exceptions to application. (1) Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire marshal, and after approval of the county agricultural agent of the county in which the fireworks are to be used and the fireworks must at all times be kept in possession of the farmer to whom the permit is issued. Such permits and fireworks shall not be transferable. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the City of Cowan.

(2) Further exempt are fireworks and/or fireworks displays that might be other than the use of Class C common fireworks when used solely for a public exhibition of such items either when displayed or discharged.

(3) Such exhibitors of a public fireworks display for special events shall have prior approval by the Cowan City Council after application has been made and approved by the Cowan Fire Department.

(4) Items used in a special event fireworks display shall conform to, and be limited to, those guidelines and specifications as defined by the Cowan Fire Department. Such guidelines and specifications may be altered or be designed specifically for each special event at the discretion of the Cowan Fire Department. (as added by Ord. #10-10-01, Dec. 2010)