

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICTS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. MISCELLANEOUS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICTS²

SECTION

- 7-101. First fire district.
7-102. Second fire district.

7-101. First fire district. All of the property now or hereafter zoned for commercial and industrial uses is hereby declared to be the first fire district of the city, and shall be the fire district referred to in Chapter 30 of the Standard Building Code, 1991 edition. (1983 Code, § 7-101, modified)

7-102. Second fire district. The second fire district shall embrace all of the territory within the city lying without the boundaries set out in section 7-101 above. (1983 Code, § 7-102)

¹Municipal code reference

Building, utility and housing code: title 12.

²The significance of the fire district is that Chapter 30 of the Standard Building Code, applicable to the City of Winchester through title 12 of this code, imposes certain construction, modification and other requirements peculiar to buildings located within the fire district, and prohibits Hazardous (Group H) occupancies within the fire district. Chapter 4, Section 408 of the Standard Building Code defines Hazardous (Group H) occupancy in both general and specific terms, but generally it refers to occupancies involving highly combustible, flammable or explosive materials.

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Electrical wiring installed in first fire district.
- 7-206. Modifications.
- 7-207. Appeals.
- 7-208. Violations and penalty.

7-201. Fire code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Fire Code,² 2006 edition and the NFPA 101 Life Safety Code, 2006 edition have been filed with the city clerk.

(2) Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code, 2006 edition and one (1) copy of the NFPA 101 Life Safety Code,³ 2006 edition has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #597, Apr. 1989, modified, as amended by Ord. #729, June 1998, modified, and replaced by Ord. #922, Oct. 2010)

7-202. Enforcement. The fire prevention code herein adopted by reference shall be enforced by the Winchester Fire Department through its appointed designee who shall have the same powers as the state fire marshal. (1983 Code, § 7-202, as replaced by Ord. #699, April 1996)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the code herein adopted, it shall be held to mean the City of Winchester, Tennessee. (1983 Code, § 7-203)

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

²Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

³Copies of this code are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269.

7-204. Storage of explosives, flammable liquids, etc. (1) The district referred to in section 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(2) The district referred to in section 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(3) The district referred to in section 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, is hereby declared to be the first fire district as set out in section 7-101 of this code.

(4) The district referred to in section 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, is hereby declared to be the first fire district as set out in section 7-101 of this code. (1983 Code, § 7-204, modified)

7-205. Electrical wiring installed in first fire district. All electrical wiring installed within the fire district shall meet all applicable codes adopted by the governing body. All electrical wiring installed within the first fire district of the city shall be encased in conduit.¹ (1983 Code, § 7-205, as amended by Ord. #699, April 1996)

7-206. Modifications. (1) Definitions. Whenever in the International Fire Code and the NFPA 101 Life Safety Code, 2006 edition, reference is made to the duties of a certain official named therein, that designated official of the City of Winchester, who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code are concerned.

(2) Permit fees. The schedule of permit fees shall be as determined by the Council of the City of Winchester, Tennessee by ordinance from time to time. A copy of such fees shall be available in the office of the city recorder. (1983 Code, § 7-206, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

7-207. Appeals. Whenever the appointed designee of the fire department disapproves an application or refuses to grant a permit applied for under section 7-206 above, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal that decision to the fire chief. If at the end of thirty (30) days a satisfactory resolution has not been met, the applicant may continue the appeal to the Winchester City Council at the next regularly scheduled council meeting. The decision of the city council shall be

¹Municipal code reference

Building, utility and housing codes: title 12.

final and binding. (1983 Code, § 7-207, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-208. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Fire Code, 2006 edition and the NFPA 101 Life Safety Code, 2006 edition as herein adopted by reference. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. Remedial fines and penalties may be assessed to bring violations into compliance after legal notice. (1983 Code, § 7-208, as replaced by Ord. #699, April 1996, and Ord. #922, Oct. 2010)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Created; purpose.

7-302. Firefighters subject to chain of command within the fire department.

7-303. Duties of fire department personnel.

7-304. Members.

7-305. Equipment.

7-306. Traffic regulations.

7-307. Maliciously causing false alarms.

7-301. Created; purpose. A department known as the Winchester Fire Department, the object of which shall be the prevention of fire and the protection of life and property within the limits of the city, is hereby created. (1983 Code, § 7-301)

7-302. Firefighters subject to chain of command within the fire department. The fire department shall consist of a chief, who shall supervise all fire department personnel, and such other assistants and personnel as deemed necessary by the city council. (1983 Code, § 7-302, as amended by Ord. #559, Jan. 1986; Ord. #699, April 1996; and Ord. #824, July 2004)

7-303. Duties of fire department personnel. Duties of the fire department personnel shall be assigned by the fire chief, or his designated assistants. Job descriptions for the fire department personnel shall be developed and under the custodial supervision of the city administrator. (1983 Code, § 7-303, as replaced by Ord. #699, April 1996, and amended by Ord. #824, July 2004)

7-304. Members. (1) Each member of the department shall be issued a badge designating his rank.

(2) Recommendations of apparatus and equipment. Recommendations of apparatus and equipment shall be made by the fire chief. The fire chief shall make requests for purchase in such manner as may be designated by the city council.

(3) All regularly appointed members of the department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this article. (1983 Code, § 7-304, as amended by Ord. #559, Jan. 1986, and Ord. #824, July 2004)

¹Municipal code reference

Department of Safety oversees the Fire department, see section 6-101.

7-305. Equipment. (1) The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.

(2) All equipment of the department shall be safely and conveniently housed in such places as may be designated by the city council. Such places shall be heated during the winter season.

(3) Suitable arrangements or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the department so that they may promptly respond.

(4) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department.

(5) No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by, or having the special permission of, an officer or authorized member of the department. (1983 Code, § 7-305, as amended by Ord. #699, April 1996, and Ord. #824, July 2004)

7-306. Traffic regulations. (1) All motor equipment and all personal cars of department members shall have right-of-way over all other traffic when responding to an alarm; however, traffic signs and laws shall be observed.

(2) No person shall drive any vehicle over fire hose except upon specific orders from the ranking officer in charge where the hose is used.

(3) No person shall park any vehicle or otherwise cause any obstruction to be placed within twenty-five (25) feet of the entrance to any fire station or other place where fire apparatus is stored, or within fifteen (15) feet of any fire hydrant.

(4) No unauthorized person with any vehicle shall follow within six hundred (600) feet of any apparatus belonging to the department, or park any vehicle within three hundred (300) feet of a fire.

(5) All persons who shall be upon the streets of the City of Winchester at any time when the fire siren or alarm shall sound, whether they be pedestrian or whether they be riding in any sort of a vehicle, shall, immediately upon the sounding of such fire alarm, if walking, remain upon the sidewalks and not attempt to cross or walk upon the streets, and if they be riding in a vehicle, shall immediately bring such vehicle to rest at a parking place or alongside the curb of the street, and such persons shall so remain until after the passing of the

fire engine and department. (1983 Code, § 7-306, as amended by Ord. #699, April 1996)

7-307. Maliciously causing false alarms. Any person maliciously giving, or causing to be given, a false alarm of fire shall be deemed guilty of a misdemeanor. (1983 Code, § 7-307, as amended by Ord. #699, April 1996)

CHAPTER 4¹

MISCELLANEOUS

SECTION

7-401. Reference to public safety department in code replaced.

7-401. Reference to public safety department in code replaced. Any other references in the Winchester Municipal Code to the public safety department are amended to reference the police department or fire department as appropriate. (1983 Code, § 7-401, as replaced by Ord. #699, April 1996, and Ord. #824, July 2004)

¹The original title 7 chapter 4 "Mutual Aid Agreements" was replaced by Ord. #824, July 2004.

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permits required.
- 7-504. Permit fee.
- 7-505. Privilege licenses required.
- 7-506. Permissible type of fireworks.
- 7-507. Conditions for sale and use permissible items.
- 7-508. Retail sale of permissible items - time limitations - exceptions.
- 7-509. Public displays - permits - regulation.
- 7-510. Regulations governing storing, locating or display of fireworks.
- 7-511. Unlawful acts in the sale, handling or private use of fireworks.
- 7-512. Seizure and destruction of fireworks.
- 7-513. Penalty for violation.
- 7-514. Exceptions to application.

7-501. 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 Winchester, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1983 Code, § 7-501, as replaced by Ord. #699, April 1996; and further replaced by Ord. #722, June 1997)

7-502. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise;

(1) "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 Winchester, except to a holder of a manufacturer's distributor's or wholesaler's permit issued by the state fire marshal and the Winchester Fire Department.

(2) "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;

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

(4) "Permit" means the written authority of the Winchester 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, copartnership, 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. #722, June 1997)

7-503. 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 Winchester 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 Winchester and the state fire marshal (as required by T.C.A. 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 Winchester except as herein provided. Permits issued under this section are not transferable. (as added by Ord. #722, June 1997)

7-504. Permit fee. The permit fee for the permit provided for in section 7-503 of this chapter shall be five hundred dollars (\$500.00) and the permit shall be valid for twelve (12) months. However, the City Council of Winchester may in its discretion waive the permit fee for any non-profit organization requesting the permit. (as added by Ord. #722, June 1997)

7-505. Privilege licenses required. The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal privilege licenses as now or hereafter provided by law. (as added by Ord. #722, June 1997)

7-506. Permissible type of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Winchester, or ship into the City of Winchester, except as provided in this chapter, any pyrotechnics commonly known 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. #722, June 1997)

7-507. Conditions for sale and use of permissible items. No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the City of Winchester, 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. #722, June 1997)

7-508. Retail sale of permissible items - time limitations - exceptions. Permissible articles of fireworks may be sold at retail in the city of Winchester and used within the City of Winchester from June 20th through July 5th, and December 10th through January 2 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. #722, June 1997)

7-509. 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 marshall. 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 Winchester shall include display shells designed to be fired from mortars and display set pieces of fireworks classified by the regulation or 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 Winchester Fire Department, and applied for and received a permit for such displays issued by the state fire marshall. 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. #722, June 1997)

7-510. 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 location 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. #722, June 1997)

7-511. 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 ten (10) years 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 Winchester for any purpose. This subsection shall not effect display fireworks authorized by this chapter. (as added by Ord. #722, June 1997)

7-512. Seizure and destruction of fireworks. (1) The Winchester 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 Winchester Fire Department shall give notice by registered mail or personal service to such owner, of 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 T.C.A. Title 4, Chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the Winchester 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 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 Winchester 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. #722, June 1997)

7-513. 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 \$50.00. In addition, the Winchester 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.

7-514. 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 marshall, 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 Winchester.

(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 Winchester City Council after application has been made and approved by the Winchester 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 Winchester Fire Department such guidelines and specifications may be altered

or be designed specifically for each special event at the discretion of the Winchester Fire Department. (as added by Ord. #722, June 1997)