

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. LIQUEFIED PETROLEUM GAS CODE.
4. FIRE DEPARTMENT.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include all that area of the city as described in the city's zoning ordinance. (2001 Code, § 7-101, modified)

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

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Gasoline trucks.
- 7-204. Variances.
- 7-205. Violations and penalty.

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 providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,² 2006 edition, as recommended by the International Code Council, 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 fire code has been filed with the town recorder and is available for public use and inspection. Said fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

7-203. 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.

7-204. Variances. The chief of the fire department may recommend to the board of commissioners variances from the provisions of the 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,

¹Municipal code reference

Building, utility and residential codes: title 12.

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

public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of commissioners.

7-205. Violations and penalty. It shall be unlawful for any person to violate any of the provisions of this chapter or the 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 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 by a penalty 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

LIQUEFIED PETROLEUM GAS CODE

SECTION

7-301. Liquefied petroleum gas code adopted.

7-302. Violations and penalty.

7-301. Liquefied petroleum gas code adopted. The 2004 edition of NFPA 58, Liquefied Petroleum Gas Code and documents listed in chapter 2 thereof (the "Liquefied Petroleum Gas Code" or "LPGC"), one (1) copy of which is on file and open to inspection by the public in the office of the City Recorder of the City of Maynardville are hereby adopted and incorporated into this chapter as fully as if set out at length herein, and from the date on which the ordinance comprising this chapter shall take effect, the provisions thereof shall be in effect and shall be controlling within the limits of the City of Maynardville. The same are hereby adopted as a portion of the code of the City of Maynardville specifically title 7, Fire Protection and Fireworks, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion and for providing for issuance of permits and collection of fees. (Ord. #0-2005-01, Jan. 2005, modified)

7-302. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the petroleum gas code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

CHAPTER 4

FIRE DEPARTMENT¹

SECTION

- 7-401. Fire department established.
- 7-402. Appropriations.
- 7-403. Purposes and objectives.
- 7-404. Organization.
- 7-405. Budget.
- 7-406. Authority over personnel.
- 7-407. Training.
- 7-408. Fire chief designated assistant to state commissioner of commerce.
- 7-409. Fire service outside city limits.

7-401. Fire department established. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the city manager and such number of subordinate officers and firemen as may be recommended by the fire chief and approved and appointed by the city manager and as shall be provided for in the annual operating budget of the city. (Ord. #226, June 2004, modified)

¹Charter references

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

Fire chief

Appointment: § 6-21-701.

Duties: § 6-21-702.

Emergency: § 6-21-703.

Fire marshal: § 6-21-704

Firemen

Appointment: § 6-21-701.

Emergency powers: § 6-21-703.

Municipal code reference

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

7-402. Appropriations. The board of commissioners shall provide for the operations of the fire department in its annual budget. Any funds raised by the fire department personnel, or by any individual or group of volunteer firemen may be accepted by the board of commissioners and may be used for purposes designated by the respective contributors. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the city. The board of commissioners may reject any gift or contribution it deems not to be in the best interest of the city. (Ord. #226, June 2004)

7-403. Purposes and objectives. The 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) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable;
- (8) To provide code enforcement and building inspections as directed by the city within adopted codes and ordinances;
- (9) To serve as the emergency management agency of the city;
- (10) To protect the health and safety of the citizens from the transportation, storage, or manufacture of hazardous materials to the extent possible that the level of equipment and training will allow;
- (11) To work with the water department to insure that adequate water supplies for fire protection are available; and
- (12) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (Ord. #226, June 2004)

7-404. Organization. The chief of the fire department shall, under the direction of the city manager, set up the organization of the department, make work assignments to individuals, based on input, suggestions and recommendations from the members of the volunteer fire department, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (Ord. #226, June 2004)

7-405. Budget. The chief of the fire department shall assist in preparing the annual departmental budget to be approved by the board of commissioners, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports to the city manager as the city manager requires. The city manager shall submit such

written reports to the board of commissioners as the board of commissioners requires. (Ord. #226, June 2004, modified)

7-406. Authority over personnel. The chief of the fire department shall recommend to the city manager suspensions or dismissals of any member of the fire department when he deems such action to be necessary for the good of the department. (Ord. #226, June 2004, modified)

7-407. Training. 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 manager. Each volunteer firefighter and/or officer shall receive no less than forty (40) hours of in-service firefighter training annually, after an initial training period consisting of no less than sixty four (64) hours of basic firefighter training during the first ninety (90) days of his membership in the fire department. All firefighters shall be trained in accordance with the standards of the Tennessee Commission on Firefighter Standards and Education. (Ord. #226, June 2004, modified)

7-408. Fire chief designated assistant to state commissioner of commerce. 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. (Ord. #226, June 2004)

7-409. Fire service outside city limits. The board shall have full power and authority to authorize the use of the city's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) Tennessee Code Annotated § 58-8-101, et seq., the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to Tennessee Code Annotated § 12-9-101, et seq. "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency

medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

(2) Tennessee Code Annotated § 12-9-101, et seq., the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) Tennessee Code Annotated § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.)

CHAPTER 5

FIREWORKS

SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Permit required.
- 7-504. Permit fee.
- 7-505. Privilege licenses required.
- 7-506. Permissible types of fireworks.
- 7-507. Conditions for sale and use of 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. Violations and penalty.

7-501. Purpose. The purpose of this chapter is to provide an ordinance for regulation of the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of Maynardville, Tennessee setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof.

7-502. Definitions. 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 Maynardville except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal.

(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 Maynardville.

(4) "Permit" means the written authority of the city manager 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 one (1) or more individuals.

(8) "Special fireworks" means all articles of fireworks that are classified as Class B explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified as Class C.

7-503. Permit required. It shall be unlawful for any person to sell, offer for sale, ship or cause to be shipped into the City of Maynardville, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from 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 selling or offering for sale, shipping or causing to be shipped any fireworks into the City of Maynardville except as herein provided. Permits issued under this section are not transferable. No permit shall be issued for manufacturing of fireworks within the city as the same is prohibited.

7-504. Permit fee. The permit fee for the permit provided for in this chapter shall be one hundred dollars (\$100.00) and the permit shall be valid for three hundred sixty-five (365) days. However, the board of commissioners may in its discretion waive the permit fee for any non-profit organization requesting the permit.

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 are now or hereafter provided by law.

7-506. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the City of Maynardville, or ship into the City of Maynardville, 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 5 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.

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 Maynardville, or used within the city, unless it is properly named and labeled to conform to the nomenclature of allowed fireworks and unless it is certified a "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. The fire marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the fire code, all in full force and effect within the city.

7-508. Retail sale of permissible items--time limitations--exceptions. Permissible articles of fireworks may be sold at retail to residents of the City of Maynardville and used within the City of Maynardville 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 sales 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.

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 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 Maynardville shall include display shells designed to be fired from mortars and display set pieces of fireworks classed 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 police chief and fire chief, or their designees, 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 displays shall be confined to holders of a distributors permit only.

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 purchaser, 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.

(3) All firework devices sold under a duly issued permit must be located not less than fifty feet (50') from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed three hundred sixty-five (365) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years.

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 five hundred feet (500') of where fireworks are stored, sold or offered for sale, or within five hundred feet (500') of a gasoline retailer or wholesale storage facility;

(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 at 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 Maynardville for any purpose. This subsection shall not effect display fireworks authorized by this chapter.

(3) Failure to comply with the city's zoning ordinance relative to minimum front building line set back requirements set forth in said ordinance at a retail sale site.

7-512. Seizure and destruction of fireworks. (1) The Maynardville City Manager or fire chief, may seize as contraband any fireworks other than "Class C common fireworks" or "special fireworks" for public displays, which are sold, displayed, used or purchased in violation of this chapter.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the city manager shall give notice by registered mail or personal service to such owner, of the fire chief'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 city manager 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 city manager, the city manager 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 chief's intention to destroy such fireworks. The notice shall be published once each week for three (3) consecutive weeks and if no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the fire chief 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.

7-513. Violations and penalty. 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 less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00). In addition, the City of Maynardville may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years.