

## TITLE 7

### FIRE PROTECTION AND FIREWORKS<sup>1</sup>

#### CHAPTER

1. MISCELLANEOUS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. SMOKE DETECTION DEVICES IN PUBLIC HOUSING.
5. FIREWORKS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

- 7-101. Fire limits established.  
7-102. Releasing water from fire hydrants.

**7-101. Fire limits established.** The fire limits of the city are hereby established as the area bounded as follows:

On the west by High Street; on the north by Morford Street; on the east by Sparta Street; and on the south in a straight line with Sparta Street to where the line intersects with Jail Street or Colville Street; thence with Jail or Colville Street to High Street. Also a section bounded as follows: Beginning on Sparta Street at a point where Morford Street intersects the same, the same being the northeast corner of the intersection of Morford and Sparta Streets, running thence northwardly with the west side of Sparta Street 125 feet; thence westwardly with a line parallel with to the north edge of Morford Street to the east edge of Chancery Street; thence southwardly with Chancery Street to where the same intersects Morford Street, a distance of 125 feet. Also a section within the city bounded and described as follows:

Beginning on Morford Street, 100 feet west of the intersection of Morford Street with Chancery Street, and running thence northwardly parallel with Chancery Street to a point opposite the northwest corner of Towles Avenue; thence eastwardly with Towles Avenue and on eastwardly with said avenue, 250 feet to a stake; thence southwardly and parallel with

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

Service outside city limits: title 20.

Emergency operations plan: title 20, chapter 5.

Chancery Street to a point in the north boundary line in that of the present fire limits; thence westwardly with the north boundary line of the present fire limits; thence east with the edge of Chancery Street, a corner of the present fire limits; thence southwardly with the east edge of Chancery Street to Morford Street; thence with Morford Street to the beginning. (1982 Code, § 7-101)

**7-102. Releasing water from fire hydrants.** It shall be unlawful for any unauthorized person to release or obtain water from a fire hydrant in the City of McMinnville, unless done in an emergency situation for which purpose the fire hydrants exist.

Unauthorized persons include anyone who is not a member of the McMinnville Fire Department, who is not a city street department employee, who is not otherwise a city employee and other persons who have not been authorized by the water department to so obtain water. (1982 Code, § 7-102)

## CHAPTER 2

### FIRE CODE<sup>1</sup>

#### SECTION

- 7-201. Fire prevention code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Dispensing of gasoline.
- 7-207. Automatic vending devices prohibited; self service pumps.
- 7-208. Storage, etc., of gasoline, etc., in glass containers.
- 7-209. Burning of trash, rubbish, junk, dismantled automobiles, etc.
- 7-210. Removal of buildings.
- 7-211. Variances.
- 7-212. Violations.
- 7-213. Available in recorder's office.

**7-201. Fire prevention code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the fabrication, erection, construction, enlargement, alteration, repair, location of structures, dwellings, and their appurtenances, and accessory structures, the International Fire Code,<sup>2</sup> 2009 edition, and the following appendixes A, B, C, D, E, F, G, H, I, and J, as prepared and adopted by International Code Council, Inc. are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the International Fire Code, 2009 edition. (1982 Code, § 7-201, replaced by Ord. #1218, Oct. 1996; Ord. #1293, July 1998; and Ord. #1390, July 2001; amended by Ord. #1410, Feb. 2002, and replaced by Ord. #1486, March 2005; Ord. #1520, April 2006, and Ord. #1614, July 2010)

**7-202. Enforcement.** The fire prevention 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. (1982 Code, § 7-202)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

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

**7-203. Definition of "municipality."** Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of McMinnville, Tennessee. (1982 Code, § 7-203)

**7-204. Storage of explosives, flammable liquids, etc.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 902.1.1 of the fire prevention code, in which storage of flammable liquids in outside above ground tanks is prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby declared to be the fire limits as set out in § 7-101 of this code.

The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby declared to be the fire limits as set out in § 7-101 of this code. (1982 Code, § 7-204)

**7-205. 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. (1982 Code, § 7-205)

**7-206. Dispensing of gasoline.** The dispensing of gasoline or other similar liquids at service stations or garages or from pumps or devices from which the public is served shall be under the direct control of the owner, manager, or an employed attendant of such service station or similar business. (1982 Code, § 7-206)

**7-207. Automatic vending devices prohibited; self service pumps.** The use of automatic vending devices for the discharge of gasoline or other volatile inflammable liquids for public use in any service station or garage or for any pump or device from which the public is served is prohibited; provided, however, that automatic shutoff nozzles with latch-open devices may be installed and used for the dispensing of gasoline and other similar liquids into fuel tanks of motor vehicles, provided that such nozzles shall be judged to be acceptable for listing as to safety by Examination Service of Underwriters Laboratories, Inc., such corporation being sponsored by the American Insurance Association. All self-service pumps shall be installed with automatic shutoff nozzles used for the dispensing of gasoline or other similar liquids into fuel tanks of motor vehicles. This section shall not be construed to permit the installation and use of coin operated dispensing devices for gasoline or other flammable liquids. (1982 Code, § 7-207)

**7-208. Storage, etc., of gasoline, etc., in glass containers.** No gasoline, kerosene, or other highly inflammable liquid, whether derived from petroleum or some other source, shall be sold, stored, or handled in a glass container. This prohibition against the storage, sale, or handling of inflammable liquids in a glass container shall not apply to such liquids in common household use such as turpentine, fly and moth sprays, and others where the same are packaged in small containers of one quart size or less. (1982 Code, § 7-208)

**7-209. Burning of trash, rubbish, junk, dismantled automobiles, etc.** It shall be unlawful for any person to burn trash, lumber, leaves, papers, rags, rubbish, machinery, junk of any kind, character, and description; or discarded, dismantled, or wrecked automobiles and accessories and parts thereof, in any street, alley, road, or vacant lot within the city or within one (1) mile of the city limits, except by special permission of the fire chief. The fire chief may issue a permit setting forth the conditions under which burning is to be conducted, which permit shall further be signed by the person seeking permission as well as by the duly authorized member of the McMinnville Fire Prevention Bureau. Should the person to whom such permit is issued violate any of such permit's terms and conditions, then said person shall be deemed to be guilty of a misdemeanor and, upon conviction, fined according to the general penalty clause for this code of ordinances. (1982 Code, § 7-209)

**7-210. Removal of buildings.** Any building or buildings wholly or partially destroyed by fire or wear and tear, or any other damage which becomes or may become a danger or hazard to the health or safety of a citizen and which has not been removed or cleaned up within thirty (30) days after written demand for such removal has been made upon the record holder of title to the property upon which is located said building or buildings, shall thereafter be removed and cleared by the fire department or the street department in a manner deemed best. Said removal and clearance shall be at the expense of the record holder of title and shall be added onto said owner's property tax. (1982 Code, § 7-210)

**7-211. Variiances.** The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire prevention 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 board of mayor and aldermen. (1982 Code, § 7-211)

**7-212. Violations.** It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby 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 application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (1982 Code, § 7-212)

**7-213. Available in recorder's office.** Pursuant to the requirements of section 6-54-502 of the Tennessee Code Annotated, one (1) copy of the Fire Prevention Code has been placed on file in the recorder's office and shall be kept there for public use, inspection, and examination. (as added by Ord. #1218, Oct. 1996, and replaced by Ord. #1293, July 1998, and Ord. #1390, July 2001)

## CHAPTER 3

### FIRE DEPARTMENT<sup>1</sup>

#### SECTION

- 7-301. Established.
- 7-302. Composition; appointment and terms of members.
- 7-303. Compensation of chief.
- 7-304. Compensation of regular firemen.
- 7-305. Compensation of volunteer firemen.
- 7-306. Meetings; adoption of rules and regulations.
- 7-307. Clerk.
- 7-308. Designation of and assignments of firemen.
- 7-309. General powers and duties of assistant chief.
- 7-310. Hiring or discharge of all firemen.
- 7-311. Hours of duty for regular firemen.
- 7-312. Duty of members in case of fire.
- 7-313. Members subject to orders of chief.
- 7-314. Failure of members to obey orders.
- 7-315. Honorable discharge of member before expiration of term.
- 7-316. Interfering with members.
- 7-317. Uniform regulations.
- 7-318. Physical examination required of applicants.
- 7-319. Training and compensation of volunteer firemen.
- 7-320. Additional fire marshall position created.

**7-301. Established.** A fire department is hereby established in and for the city. (1982 Code, § 7-301)

**7-302. Composition; appointment and terms of members.** The fire department shall consist of a chief to be elected by the board of mayor and aldermen, and the number of officers and firemen shall be determined by the requirements of the Tennessee Inspection Bureau. The term of office of the chief shall be of the same duration as all other department heads. The officers and firemen are to be appointed by the chief of the fire department, and their terms of office shall expire with that of the chief at whose hands they receive their respective appointments. (1982 Code, § 7-302)

**7-303. Compensation of chief.** Compensation of the chief shall be made and set by the board of mayor and aldermen. (1982 Code, § 7-303)

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<sup>1</sup>Municipal code reference

Fire department under supervision of the safety committee: § 1-112.

**7-304. Compensation of regular firemen.** Compensation of regular firemen or full-time firemen shall be made and set by the board of mayor and aldermen. (1982 Code, § 7-304)

**7-305. Compensation of volunteer firemen.** (1) The volunteer fireman pay scale shall be eight dollars and fifty cents (\$8.50) per fire for all volunteer firemen who attend and participate in the work of a general alarm fire, but in no event will they receive any pay for false alarms.

(2) There shall be no general alarm nor use of volunteer firemen for anything other than buildings inside the municipal limits unless declared an emergency by the fire officials or chairman of the safety committee.

(3) There will be no general alarm nor use of volunteer firemen for burning cars, grass, or trash within the municipal limits, nor for rural fires unless declared an emergency by the fire officials or chairman of the safety committee.

(4) All regular firemen shall be volunteer firemen on their off-duty hours, and they shall receive the same pay as other volunteer firemen when acting in such volunteer capacity.

(5) There shall be no fire calls answered outside the municipal limits for burning cars, grass, or trash unless declared an emergency by the fire officials or chairman of the fire safety committee. (1982 Code, § 7-305)

**7-306. Meetings; adoption of rules and regulations.** The members of the fire department shall meet at least once each month, the time and place of such meeting to be fixed by the chief, for the transaction of business and for necessary rehearsal in order that they may be proficient in handling the fire trucks, the hoses, and other apparatus of the department. The department shall have the right and power to adopt such rules and regulations as it shall deem proper and necessary to enforce the attendance of members and for other purposes not inconsistent with the ordinances of the city. (1982 Code, § 7-306)

**7-307. Clerk.** The chief of the fire department shall appoint a clerk of the department who shall keep an accurate record of the proceedings of the business meetings of the department. (1982 Code, § 7-307)

**7-308. Designation of and assignments of firemen.** The chief shall have authority to transfer and assign firemen where he deems best for the department. (1982 Code, § 7-308)

**7-309. General powers and duties of assistant chief.** When the chief of the fire department is absent, ill, or otherwise prevented from answering the alarm, or a vacancy occurs in such office, the assistant chief shall perform the duties and exercise all the powers of the chief. (1982 Code, § 7-309)



**7-310. Hiring or discharge of all firemen.** The chief will be solely responsible with full power and authority for the hiring or discharge of any regular or volunteer firemen. (1982 Code, § 7-310)

**7-311. Hours of duty for regular firemen.** Hours of duty for regular firemen shall be twenty-four (24) hours on duty and twenty-four (24) hours off duty with the exception of a Kelly day per month for each regular fireman. The Kelly day for each regular fireman shall be determined by the chief. (1982 Code, § 7-311)

**7-312. Duty of members in case of fire.** It shall be the duty of each member of the fire department, unless prevented by illness of himself or his family or absence from the city, promptly to respond to every alarm of fire and make a diligent and intelligent effort to extinguish or prevent the spread of fire within the city. (1982 Code, § 7-312)

**7-313. Members subject to orders of chief.** The members of the fire department shall, at all times while in the performance of the duties of their respective offices, be subject to the orders of the chief of the department. (1982 Code, § 7-313)

**7-314. Failure of members to obey orders.** Any member of the fire department who shall willfully fail or refuse to comply with or obey any orders of the chief or any officer in charge shall be guilty of a misdemeanor and upon conviction fined in accordance with the general penalty clause for this code and be dishonorably discharged from the department. Any officer refusing to obey the orders of his superior officer shall be likewise guilty and so punished. (1982 Code, § 7-314)

**7-315. Honorable discharge of member before expiration of term.** When any citizen becomes a member of the fire department, he shall not be honorably discharged therefrom before the expiration of his term of enlistment without the consent of the chief. (1982 Code, § 7-315)

**7-316. Interfering with members.** It shall be unlawful for any person in any manner to interfere with or hinder any member of the fire department in the performance of his duty. (1982 Code, § 7-316)

**7-317. Uniform regulations.** No regular fireman shall wear his uniform or any part or parts thereof while not on duty. (1982 Code, § 7-317)

**7-318. Physical examination required of applicants.** Anyone applying for a job as a regular fireman must first pass a physical examination before acceptance for regular employment. (1982 Code, § 7-318)

**7-319. Training and compensation of volunteer firemen.**

(1) Volunteer firemen are required to attend two training periods each month consisting of two (2) hours each with training periods to be scheduled by the fire chief.

(2) The training program shall be promulgated by and function under the supervision of the fire chief.

(3) The curriculum shall be designed to meet the requirements of the Tennessee Fire Inspection Bureau.

(4) Any volunteer fireman who absents himself from such training periods as much as one-half the actual time such training is held over any consecutive six months' time, without valid cause, shall be subject to dismissal from the department.

(5) Each volunteer fireman will be compensated at a rate of three dollars and fifty cents (\$3.50) for each full training period actually attended and will be paid for all such periods annually at the time when authorized compensation is paid as provided for in § 7-305. (1982 Code, § 7-319)

**7-320. Additional fire marshall position created.** (1) One (1) additional position of fire marshall shall be created in the fire department.

(2) This position shall be in full-time enforcement of city codes in the same manner as the present fire marshall and shall be subject to the same job description and duties.

(3) The 1996-97 budget has sufficient funds to cover the cost of this position and in the 1997-98 fiscal year this position will be required to be funded. (as added by Ord. #1237, April 1997)

## CHAPTER 4

### SMOKE DETECTION DEVICES IN PUBLIC HOUSING

#### SECTION

7-401. Each unit of public housing to have smoke detector.

7-402. Buildings subject to inspection by city fire inspector to have smoke detectors.

7-403. Date of compliance.

7-404. Penalty.

**7-401. Each unit of public housing to have smoke detector.** Each unit of public housing owned by or under the control of the City of McMinnville, Tennessee, or the McMinnville Housing Authority shall be equipped with and shall contain at least one operative smoke detector. (1982 Code, § 7-501)

**7-402. Buildings subject to inspection by city fire inspector to have smoke detectors.** All residential units located in buildings subject to inspection by the city fire inspector shall have smoke detectors located in the residential unit section of the building. (1982 Code, § 7-502)

**7-403. Date of compliance.** All of the units covered in this chapter shall be so equipped with smoke detectors prior to January 1, 1986. (1982 Code, § 7-503)

**7-404. Penalty.** Any unit covered by this chapter not having a working smoke detector in each of the units after January 1, 1986, shall be fined up to fifty dollars (\$50) for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The owner shall not be fined if they provided an operating smoke detector and the resident deliberately disabled the unit. (1982 Code, § 7-504)

## CHAPTER 5

### FIREWORKS

#### SECTION

- 7-501. Purpose.
- 7-502. Definition of terms.
- 7-503. Manufacture prohibited.
- 7-504. Permits required, storage sale and use restricted.
- 7-505. Permit fee.
- 7-506. Business and privilege licenses required and/or transient vendor license.
- 7-507. Permissible type of fireworks.
- 7-508. Conditions for sale and use permissible items.
- 7-509. Retail sale of permissible items--time limitations--exceptions.
- 7-510. Public displays--permits--regulation.
- 7-511. Regulations governing storing, locating or display of fireworks.
- 7-512. Unlawful acts in the sale, handling or private use of fireworks.
- 7-513. Seizure and destruction of fireworks.
- 7-514. Penalty for violation.
- 7-515. Exceptions to application.

**7-501. Purpose.** The purpose of this chapter is to provide for the sale, display and use of certain fireworks for both private and public display within the corporate limits of the City of McMinnville, Tennessee, within certain guidelines that shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #1410, Feb. 2002)

**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 McMinnville, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal and the McMinnville Fire Department;

(2) "D.O.T. Class 1.4 common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class 1.4 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 McMinnville.

(4) "Permit" means the written authority of the McMinnville Fire Department issued under the authority of this chapter;

(5) "Person" means any individual, firm, partnership, corporation, LLC or LLP, or any other entity;

(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 1.3 explosives in the regulations of the United States Department of Transportation and includes all articles other than those classified as Class 1.4. (as added by Ord. #1410, Feb. 2002)

**7-503. Manufacture prohibited.** It shall be unlawful for any person, as defined herein, to manufacture within the corporate limits of the City of McMinnville, pyrotechnics, commonly known as fireworks, of any kind or description. (as added by Ord. #1410, Feb. 2002)

**7-504. Permits required, storage, sale and use restricted.** It shall be unlawful for any person, as defined herein, to store or sell in, or ship into, the corporate limits of the City of McMinnville, any pyrotechnics, commonly known as fireworks, except those fireworks classed as permissible fireworks in Tennessee Code Annotated, § 68-104-108. The storage and sale of permissible fireworks shall be subject to the following restrictions:

(1) Any person, as defined herein, desiring to store and/or sell fireworks within the corporate limits of the City of McMinnville shall make application for a permit to do so on forms provided for that purpose. The fee for the city fireworks permit shall be five hundred dollars (\$500.00) for any structure or any tent, trailer or other temporary structure used for the sale of fireworks, up to one thousand two hundred (1,200) square feet and all over one thousand two hundred (1,200) square feet an additional fifty cents (\$0.50) per square foot.

(2) The application shall include the name of the person making the application, the person, as defined herein, he represents, the business address of both the applicant and the person he represents, the address and description of the premises where the storage and/or the sale of fireworks is contemplated and any other information the fire chief or his designee deems pertinent to aid in the investigation of the application. The application shall also contain and include the following information:

(a) Site plan, to scale, which shall include the dimensions of the structure used for the sale of fireworks.

(b) A copy of the state fire marshal permit.

(c) Documentation of certificate of insurance with a minimum of one million dollars (\$1,000,000.00) in product liability and one million dollars (\$1,000,000.00) in general liability with the City of McMinnville being named as an additional insured on the general liability insurance policy.

(3) The application shall be referred to the McMinnville Fire Chief or his designee who shall interview the applicant and inspect premises in which the storage and/or sale of fireworks is contemplated and make whatever additional investigation of the applicant or premises he deems appropriate to insure that the premises and its operation by the applicant will not constitute a fire, explosion or similar safety hazard. The fire chief shall make a determination which shall indicate whether the application is approved or denied and shall clearly state the reasons for denial, if applicable. The report may also indicate a qualified approval based on authority which the fire chief shall have to impose reasonable restrictions on the applicant and/or premises.

(4) If the fire chief approves the application, the permit shall be issued by the office of the recorder. If the fire chief's approval is qualified, the restrictions and conditions imposed by the fire chief upon the applicant and/or premises shall be stated in writing in the permit. The permit shall not be transferable to any other person, as defined herein, or on any other premises or location.

(5) If a permit is issued, they shall be valid from April 1<sup>st</sup> until March 31<sup>st</sup> of any given twelve month period. (as added by Ord. #1410, Feb. 2002, and amended by Ord. #1557, March 2008)

**7-505. Permit fee.** The permit fee for the permit provided for in § 7-503 of this chapter shall be one hundred dollars (\$100.00) and the permit shall be valid for twelve (12) months. (as added by Ord. #1410, Feb. 2002)

**7-506. Business and privilege licenses required and/or transient vendor license.** The issuance of permits provided for herein shall not replace or relieve any person of state, county or municipal business and privilege licenses as now or hereafter provided by law. (as added by Ord. #1410, Feb. 2002, and replaced by Ord. #1557, March 2008)

**7-507. Permissible type of fireworks.** It is unlawful for any person, as defined herein, to possess, sell or use within the City of McMinnville, or ship into the City of McMinnville, 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 1.4 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. #1410, Feb. 2002)

**7-508. 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 McMinnville, 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 1.4 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. #1410, Feb. 2002)

**7-509. Retail sale of permissible items--time limitations--exceptions.** Permissible articles of fireworks may be sold at retail in the City of McMinnville from June 8<sup>th</sup> through July 8<sup>th</sup>, and December 1<sup>st</sup> through December 31<sup>st</sup> and January 1<sup>st</sup> and 2<sup>nd</sup> of each year **only**; however, the use of such fireworks is restricted to the hours from 1:00 P.M. until 12:00 A.M. on the dates when fireworks are permitted to be sold **only**; however, any use of fireworks in residential areas after 10:30 P.M. shall be considered disturbing the peace where residents have complained to the police department, and the police department has notified the user(s) to discontinue the use of fireworks. However, Class "C" fireworks may be discharged in residential zoned districts from 11:30 P.M., Central Time, December 31<sup>st</sup> until 12:30 A.M., Central Time, January 1<sup>st</sup>. "Fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps contained 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 per chlorate salts may not exceed five (5) grams of composition per item), emergency flares, matches, and cigarette loads, the sale and use of which shall be permitted at all times. (as added by Ord. #1410, Feb. 2002)

**7-510. Public displays--permits--regulations.** 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 McMinnville 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 1.3 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 McMinnville Fire Department, and applied for and received a permit for such display issued by the state fire marshal and from the City of McMinnville Fire Department. Applications for permits for such public displays shall be made in writing to the McMinnville Fire Department 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.

Permit fees for public display provided for in this section shall be \$150.00 but the fee may be waived in the discretion of the board of mayor and aldermen for any non-profit organization requesting the permit. (as added by Ord. #1410, Feb. 2002)

**7-511. 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 (10) feet 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 (4) inches 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 fireworks 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. #1410, Feb. 2002)

**7-512. Unlawful acts in the sale, handling or private use of fireworks.** (1) It is unlawful to:

1. Offer for retail or to sell any fireworks to children under the age of twelve (12) years or to any intoxicated or irresponsible person;
2. Explode or ignite fireworks within two hundred feet (200') of any church, hospital, funeral home, school, industrial complex, fuel distribution center, commercial lumber yard, property of the City of



McMinnville, or in the City of McMinnville downtown business areas, and where fireworks are stored, sold or offered for sale;

3. 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 1.4 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 McMinnville for any purpose. This subsection shall not affect display fireworks authorized by this chapter. (as added by Ord. #1410, Feb. 2002)

**7-513. Seizure and destruction of fireworks.** (1) The McMinnville Fire Department shall seize as contraband any fireworks other than "Class 1.4 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:

1. If the owner of such seized fireworks is known, the McMinnville Fire Department shall give notice by certified 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 Tennessee Code Annotated, Title 4, and Chapter 5.

2. If the identity of the owner of any seized fireworks is not known to the McMinnville 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 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 McMinnville 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. #1410, Feb. 2002)

**7-514. Penalty for violation.** Any person, as defined herein, 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. Each day shall constitute a separate offense. In addition, the city recorder or the

McMinnville 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. #1410, Feb. 2002)

**7-515. 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, or 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 McMinnville.

(2) Further exempt are fireworks/or fireworks displays that might be other than the use of Class 1.4 common fireworks when used solely for a public exhibition of such items either when displayed or discharged. (as added by Ord. #1410, Feb. 2002)