

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. EMERGENCY ASSISTANCE POLICY AND PROCEDURES.
5. FIREWORKS AND EXPLOSIVES.
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CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

7-101. Fire limits described. The corporate fire district shall be as follows:

All areas of the city that are zoned C-1, C-2, C-3, or M-1 as shown on the current zoning map. (1988 Code, § 7-101, modified)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2**FIRE CODE**¹**SECTION**

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Modifications.
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Violations and penalties.
- 7-207. Deleted.

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 2012 edition (appendices D and I), 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 International Fire Code has been filed with the city recorder and is available for public use and inspection. Said International Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1988 Code, § 7-201, as amended by Ord. #99-17-0, March 1999, modified, and amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-202. Enforcement. The International 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. (1988 Code, § 7-202, modified, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

¹Municipal code reference

Building, utility and housing codes: title 12.

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

7-203. Modifications. The International Fire Code adopted in § 7-201 above is modified by deleting therefrom section 108, titled "Board of Appeals," in its entirety; § 7-206 below shall control appeals. (1988 Code, § 7-203, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of, and while actually engaged in, the expeditious delivery of gasoline. (1988 Code, § 7-204, as amended by Ord. #09-144-0, May 2009, and replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-205. Variances. The chief of the fire department may recommend to the board of commissioners variances from the provisions of the International Fire Code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen. (1988 Code, § 7-205, as replaced by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the International Fire Code herein adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been modified by the governing body 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. (1988 Code, § 7-206, modified, as amended by Ord. #09-144-0, May 2009)

7-207. Deleted. (1988 Code, § 7-207, as amended by Ord. #09-144-0, May 2009, and deleted by Ord. #17-251-O, March 2017 and Ord. #18-268-O, April 2018)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

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

7-301. Establishment, equipment, and membership. There is hereby established a fire department comprised of full-time and volunteer firemen to be supported and equipped from appropriations by the city council. Any funds raised by the fire department as a whole, or by any individual or group of firemen in the name of the fire department, shall be turned over to and become the property of, the city and the city shall use such funds in the equipping of the fire department. Any and all gifts to the fire department shall be turned over to, and become the property of, the city. All other apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall also be composed of such number of physically-fit volunteer subordinate officers and firemen as the fire chief shall appoint. (1988 Code, § 7-301, modified)

7-302. 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. (1988 Code, § 7-302, modified)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the

¹Municipal code reference
Special privileges with respect to traffic: title 15, chapter 2.

fire department, under the direction of the city council. (1988 Code, § 7-303, modified)

7-304. Records and reports. The assistant chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such written reports on these matters to the mayor as the mayor requires. (1988 Code, § 7-304, modified)

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

All personnel of the fire department shall receive such compensation for their services as the city council may from time to time prescribe. (1988 Code, § 7-305, modified)

7-306. Chief or assistant chief responsible for training and maintenance. The chief or assistant chief of the fire department, shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction and subject to the requirements of the city council. (1988 Code, § 7-306, modified)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the fire chief is designated as an assistant to the state commissioner of 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 fire prevention commissioner in the execution of the provisions thereof. (1988 Code, § 7-307)

CHAPTER 4

EMERGENCY ASSISTANCE POLICY AND PROCEDURES

SECTION

7-401. Emergency assistance policy and procedures.

7-401. Emergency assistance policy and procedures. The purpose of this chapter is to establish the policy and procedures that will govern the City of Madisonville in the process of requesting emergency assistance from another local government or in responding to the request of another local government for emergency assistance.

The following sections establish the guidelines under which decisions and their extent of implementation will be made regarding emergency assistance:

(1) Definitions. "Emergency assistance" as defined in the Local Government Emergency Assistance Act of 1987 contained in Tennessee Code Annotated, § 58-2-111 shall mean fire fighting assistance, law enforcement assistance, public works assistance, emergency medical assistance, civil defense assistance, or other emergency assistance provided by local government or any combination or all of these requested by a local government in an emergency situation in which the resources of the requesting local government are not adequate to handle the emergency.

"Local government" shall mean any incorporated city or town metropolitan government, county utility district, metropolitan airport authority, or other regional district or authority.

"Requesting party" means a local government which requests emergency assistance.

"Responding party" means local government which responds to a request for emergency assistance.

(2) Requesting assistance. All requests for emergency assistance made on behalf of the City of Madisonville shall be made in conformity with the requirements of any existing mutual aid agreements and/or as may otherwise be permitted under statutory and decisional law of the state of Tennessee. The City of Madisonville, through its appropriate senior officer, in accordance with the provisions of the Local Government Emergency Assistance Act of 1987, will be in full command of its emergency as to strategy, tactics, and overall direction of the operation and shall direct the actions of the responding party by relaying orders to the senior officer in command of the responding party.

The city of City of Madisonville accepts liability for damages or injuries, as defined in Tennessee Code Annotated, § 29-20-101 et seq. caused by the negligence of its employees or the employees (including authorized volunteers) of a responding party while under the command of the senior officer of the City of Madisonville. However, the City of Madisonville does not accept liability for damages to the equipment of personnel (including authorized volunteers) of a

responding party, nor is the City of Madisonville liable for any damages caused by the negligence of the personnel of the responding party while en route to or returning from the scene of the emergency.

The City of Madisonville acknowledges that any party from whom assistance is requested has no duty to respond nor does it have any duty to stay at the scene of the emergency and may depart at its discretion.

(3) Responding to a request for emergency assistance. The City of Madisonville will respond to calls for emergency assistance only upon proper request for such assistance made by the officer on duty for the requesting city or local government. All requests for emergency assistance shall be made in conformity with the requirements of any mutual aid agreement existing by and between the City of Madisonville and the local government whose response is sought by the City of Madisonville.

Upon the receipt of a request for aid as provided for in the preceding paragraph the city is authorized to respond as follows:

(a) The city is authorized to provide at least one (1) piece of equipment and one (1) person or crew from that particular service area from which emergency assistance is requested.

(b) The greatest response that the City of Madisonville will provide is fifty percent (50%) of the personnel and resources of that particular service for which emergency assistance is requested. The City of Madisonville response shall be determined by the severity of the emergency in the requesting party's jurisdiction as senior officer of the requesting party.

The City of Madisonville has no duty to respond to a request and will reject a request for emergency assistance or will depart from the scene of the emergency based upon the discretionary judgement of the appropriate senior officer in command at the scene of the emergency or the appropriate senior officer (department head) for that service for the City of Madisonville. In cases where two or more requests for emergency assistance are made at the same time, the appropriate senior officer of the City of Madisonville shall determine, based upon a reasonable appraisal of the emergencies of the requesting jurisdictions, how best to respond to the requests. The appropriate senior officer may determine to send all available resources to the jurisdiction with the most dire emergency, or may send some resources to each requesting jurisdiction.

The City of Madisonville accepts full liability, as defined in Tennessee Code Annotated § 29-20-101 et seq. for any damages to its equipment and personnel in responding to a request for emergency assistance and for damages caused by its equipment or personnel while on route to or returning from the scene of the emergency. However, the City of Madisonville shall not be liable for any property damage or bodily injury at the actual scene of any emergency due to actions which are performed in responding to a request for emergency assistance.

The personnel of the City of Madisonville shall have extended to any geographic area as necessary as a result of a request for emergency assistance the same jurisdiction, authority, right, privileges, and immunities, including coverage under the Worker's Compensation Laws, which they have in the City of Madisonville.

Emergency assistance requests or responses will be made only with those local governments that have also adopted policies and procedures that govern their actions during such requests or responses. (as replaced by Ord. #05-84-0, Aug. 2005)

CHAPTER 5

FIREWORKS AND EXPLOSIVES

SECTION

- 7-501. Permit required.
- 7-502. Application for permit.
- 7-503. Issuance or refusal of permit.
- 7-504. Appeal.
- 7-505. Fee for permit.
- 7-506. Fireworks, loud noises, etc., prohibited.
- 7-507. Use of streets.
- 7-508. Exhibition of permit.
- 7-509. Policemen to enforce.
- 7-510. Revocation or suspension of permit.
- 7-511. Reapplication.
- 7-512. Expiration and renewal of permit.

7-501. Permit required. It shall be a civil offense for any person, organization of persons, firm or corporation to sell firecrackers or fireworks within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (Ord. #97-3, March 1997)

7-502. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant.
- (3) If employed, the name and address of the employer.
- (4) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor, the nature of the offense, and the punishment or penalty assessed therefor.
- (5) At the time of filing the application, a fee of two hundred fifty dollars (\$250.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (Ord. #97-3, March 1997, modified)

7-503. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city

recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of the permit fee required by § 7-505. The city recorder shall keep a permanent record of all permits issued. (Ord. #97-3, March 1997)

7-504. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (Ord. #97-3, March 1997)

7-505. Fee for permit. There shall be a fee of two hundred fifty dollars (\$250.00) for the issuance of the permit. (Ord. #97-3, March 1997)

7-506. Fireworks, loud noises, etc., prohibited. (1) Except as allowed in subsection (2) it shall be unlawful for any person, firm or corporation to ignite or discharge any type of fireworks or pyrotechnics including but not limited to firecrackers, cannon crackers, roman candles, torpedoes, or sparklers within the corporate limits of the City of Madisonville.

(2) Fireworks may be ignited or discharged within the corporate limits of the City of Madisonville each year during the following dates: January 1, New Year's Day; last Monday in May, Memorial Day; July 4 holiday, includes July 3, and July 4; Labor Day, first Monday in September; Veteran's Day, November 11; Halloween; New Year's Eve, December 31.

(3) It shall be unlawful for any person, firm or corporation to manufacture any type of fireworks or pyrotechnics within the corporate limits of the City of Madisonville.

(4) It shall be unlawful for any person to ignite or discharge any type of fireworks or pyrotechnics from any type of motor vehicle, toward any type of motor vehicle, building, or person within the corporate limits of the City of Madisonville or ignite or discharge any type of fireworks or pyrotechnics on the public square. (Ord. #01-08-0, Sept. 2001)

7-507. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary

location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (Ord. #97-3, March 1997)

7-508. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (Ord. #97-3, March 1997)

7-509. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (Ord. #97-3, March 1997)

7-510. Revocation or suspension of permit. (5) Permits issued under the provisions of this chapter may be revoked by the board of aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant vendor, as the case may be, in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(6) Notice of the hearing for revocation of the permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(7) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (Ord. #97-3, March 1997)

7-511. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (Ord. #97-3, March 1997)

7-512. Expiration and renewal of permit. Permits issued to permittees shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (Ord. #97-3, March 1997)

CHAPTER 6

OPEN BURNING

SECTION

7-601. Purpose.

7-602. Definition of terms.

7-603. Standards for open burning.

7-604. Permits.

7-605. Penalties.

7-606. Violations and penalties.

7-601. Purpose. The purpose of this chapter is to regulate certain open burning in order to protect the public from the hazards of uncontrolled fires and pollution. This chapter will not relieve the person who will be burning from complying with Tennessee Code Annotated, §§ 39-14-305; 39-14-401; 68-102-146 and 68-211-101, et seq. (as added by Ord. #07-122-0, Oct. 2007)

7-602. Definition of terms. As used in this chapter, the following terms shall have the meaning ascribed to them herein, unless clearly indicated otherwise:

(1) "Authority having jurisdiction." The organization, agency, office, department or individual responsible for approval or enforcement.

(2) "Open burning." Any person burning or causing to be burned any flammable material in a method other than within an enclosure from which burning material cannot escape.

(3) "Permit" means the written authority of the City of Madisonville issued under the authority of this chapter.

(4) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency. (as added by Ord. #07-122-0, Oct. 2007)

7-603. Standards for open burning. It shall be unlawful for any person, as defined herein, to conduct an open burn within the corporate limits of the City of Madisonville without a permit.

(1) No person shall willfully start or cause to be started any open fire within the corporate limits of Madisonville without first obtaining a burn permit from the city.

(2) Prevailing winds at the time of ignition must be away from any dwelling, structure, highway, or other populated area, the ambient air of which may be significantly affected by smoke, fly ash, or other contaminants from burning.

(3) Burning shall not be limited when it is determined by the fire chief or his designee, based on information supplied by the National Weather Service

or other competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

(4) Burning shall not be initiated when it is determined and announced by the state fire marshal that dry, drought, high winds or other hazardous conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Madisonville.

(5) Burning shall not be initiated when it is determined or announced by the fire chief or his designee that dry, drought, high winds or other hazardous conditions exist to prohibit burning within the corporate limits of Madisonville.

(6) Asphaltic material, PVC, treated lumber, or items containing natural or synthetic rubber, or materials made with hydrocarbons shall not be burned or used to ignite the material to be burned or to promote the burning of such material.

(7) No burning shall be permitted within fifty feet (50') of any structure or dwelling.

(8) All fires must be attended to and under the direct supervision at all times of a person or persons that have sufficient capability and equipment to provide for complete extinguishment of the fire as needed.

(9) With the exception of permitted bonfires and campfires, all fires shall be completely extinguished by dusk. (as added by Ord. #07-122-0, Oct. 2007)

7-604. Permits. Burn permits will be obtained from the fire chief or his designee. (1) Permits issued under this chapter shall be under either one (1) of two (2) classes: standard class and large class.

(a) Standard class permits are for leaves and materials less than three (3) cubic yards and may be issued by the fire chief or his designee. Standard class permits shall be good for one (1) day between the hours of 10:00 A.M. and dusk, local time.

(b) Large class permits are for material in an amount of three (3) or more cubic yards and require the person requesting the permit to complete the form in person at least one (1) working day prior to the planned burn.

(2) All permits issued under this chapter shall be in writing, on forms provided by the fire department, in the name of the person undertaking the burning and with emergency contact information, and shall specify the specific address and area in which the burning is to occur, the type and amount of material to be burned, the duration of the permit, and such other factors as is necessary to identify the burning which is allowed under the permit.

(3) Burn sites containing three (3) cubic yards or more of the material shall be inspected by the fire chief or his designee prior to the issuance of the permit.

(4) Permits shall not be issued when it is determined by the fire chief or his designee, based on information supplied by a competent authority, that stagnant air conditions or inversions exist, or that such conditions may occur during the duration of the burn.

(5) Permits shall not be issued when it is determined or announced by the state fire marshal that dry, drought, or other conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Madisonville.

(6) Permits shall not be issued when it is determined or announced by the fire chief or his designee that dry, drought or other hazardous conditions exist to prohibit burning within the corporate limits of Madisonville.

(7) Permits shall not be issued without the approval of the authority having jurisdiction when it has cited the person or designated the burn site for being in violation of federal, state or municipal laws.

(8) The city through the fire chief has the authority to revoke a permit and to extinguish a fire for any reason affecting the health, safety or welfare of the City of Madisonville.

(9) The fire chief or designee has the authority to provide additional supplemental conditions, written on the permit, when in the best interest of the health, safety, and welfare of the City of Madisonville as it is required. (as added by Ord. #07-122-0, Oct. 2007)

7-605. Penalties. Any person violating the provisions of this chapter, or any permit issued under the authority of this chapter, or any provisions herein, shall be subject to the provisions of § 11-303 of the Code of Ordinances of the City of Madisonville, Tennessee. Each day of violations shall constitute a separate offense. The penalties provided in said section shall be separate and apart and not in lieu of all other civil or criminal penalties which may be imposed under the laws of the State of Tennessee, or the City of Madisonville, Tennessee. (as added by Ord. #07-122-0, Oct. 2007)

7-606. Violations and penalties. A violation of any provision of this chapter shall be subject to a penalty of fifty dollars (\$50.00) for each offense. (as added by Ord. #07-122-0, Oct. 2007)