

TITLE 7**FIRE PROTECTION AND FIREWORKS**¹**CHAPTER**

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2. FIRE PREVENTION CODE.
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4. HAZARDOUS MATERIALS.
5. OPEN BURNING.
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CHAPTER 1**IN GENERAL****SECTION**

- 7-101. Fire districts.
7-102. False alarms.
7-103. Unauthorized use of fire hydrants.
7-104. [Deleted.]

7-101. Fire districts. The fire districts of the city may be as established by the board of mayor and aldermen and shown on an official map to be kept by the building official and/or fire chief, with the initial map and any changes thereto to be approved by resolution of the board of mayor and aldermen from time to time upon recommendations of the building official and/or fire chief. (1988 Code, § 7-101, modified)

7-102. False alarms. It shall be unlawful for any person to wilfully and knowingly originate, utter, circulate, or cause to be uttered or circulated any false or untrue fire alarm, or untrue statement that any building or structure of any character in the city is a fire, or to originate, utter or circulate any false or untrue statement as to any conflagration in the city or to turn in to the fire department verbally, by telephone, or otherwise, any false or untrue fire alarm, unless the person so originating, uttering, or circulating, or turning in said statement, or giving said alarm, has reason to believe the same to be true. (1988 Code, § 7-102)

¹Charter references: §§ 9 and 10 (18).

Municipal code reference

Building, utility and housing codes: title 12.

7-103. Unauthorized use of fire hydrants. It shall be unlawful for any unauthorized person to turn on the water from any city owned fire hydrant. (1988 Code, § 7-103)

7-104.¹ [Deleted]. (1988 Code, § 7-105, as renumbered by Ord. #1241, Sept. 2001, and deleted by Ord. #1280, March 2004)

¹Ord. #1241, Sept. 2001, repealed § 7-104, "Permit to burn refuse" and renumbered § 7-105 as 7-104. That ordinance also added chapter 5 of title 7 entitled "Open burning." Ord. #1280, March 2004, deleted § 7-104, "Fireworks" and added chapter 6 of this title entitled "Fireworks."

CHAPTER 2

FIRE PREVENTION CODE

SECTION

7-201. Adopted.

7-202. Adoption of amendments to the International Fire Prevention Code.

7-203. Amendments to ICC

7-201. Adopted. There is hereby adopted, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the International Fire Prevention Code being particularly the 2015 edition, thereof and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended or in conflict with this code of ordinances, a copy of which is on file in the city recorder's office, and the same are hereby adopted and incorporated as fully as if set out at length herein. (Ord. #1202, July 1998, as amended by Ord. #1364, Feb. 2008, Ord. #1474, Feb. 2017, and Ord. #1493, Dec. 2017)

7-202. Adoption of amendments to the International Fire Code.

That Sections 103.1 and 103.2 of the International Fire Code are stricken and new Sections 103.1 and 103.2 be created as follows:

Section 103.1 General. The Fire Department is established within the jurisdiction under the direction of the Fire Chief. The function of the department shall be implementation, administration, and enforcement of the provisions of this code. When the title "Fire Code Official" is used in the adopted International Fire Code it shall mean "Fire Chief".

Section 103.2 [Reserved]. (Ord. #1202, July 1998, as amended by Ord. #1364, Feb. 2008, and replaced by Ord. #1474, Feb. 2017, and Ord. #1493, Dec. 2017)

CHAPTER 3

FIRE DEPARTMENT

SECTION

7-301. Created.

7-302. Composition.

7-303. Personnel; employment; compensation; removals.

7-304. Duties of chief.

7-305. Duties of members.

7-306. Authority at fires.

7-301. Created. There is hereby created a full-time paid fire department for the city, to be assisted by part-time paid firemen. (1988 Code, § 7-201)

7-302. Composition. The fire department shall consist of a full-time paid fire chief; and such other staff and members as the safety committee shall establish. (1988 Code, § 7-202)

7-303. Personnel; employment; compensation; removals. The salaries of all the fire department personnel shall be set by the board of mayor and aldermen. (1988 Code, § 7-203, modified)

7-304. Duties of chief. It shall be the duty of the chief of the fire department to fulfill all obligations set forth in his job description as found in the personnel policies and other regulations of the city and such other duties as are from time to time prescribed by the board of mayor and aldermen. (1988 Code, § 7-204)

7-305. Duties of members. It shall be the duty of all members of the fire department to fulfill all obligations set forth in his job description as found in the personnel policies and other regulations of the city and such other duties as are from time to time prescribed by the board of mayor and aldermen. (1988 Code, § 7-205)

7-306. Authority at fires. The chief of the fire department and his assistant in command at any fire are hereby clothed with full and complete police power and authority, and are hereby authorized and directed to require and secure the removal of any obstructions from in front of and around fire hydrants, and for the purpose are hereby authorized to call upon the head of any municipal department for the aid and assistance in securing such removal of obstruction. The chief will also have authority to remove any person who may be in any way interfering with operation of the fire department at any fire, and

may if necessary arrest or cause the arrest of such persons. He shall see that all persons at fires keep out of the way of the fire equipment and at such a distance from the fire as safety requires. (1988 Code, § 7-206)

CHAPTER 4

HAZARDOUS MATERIALS

SECTION

- 7-401. Definitions.
- 7-402. General requirements.
- 7-403. Hazardous material management plan.
- 7-404. Transportation and shipment of radioactive material.
- 7-405. Transportation, shipment and underground storage of hazardous materials.
- 7-406. Disposal of hazardous waste.
- 7-407. Exemptions.
- 7-408. Inspections.
- 7-409. Right of entry.
- 7-410. Penalties.
- 7-411. Injunctive relief.
- 7-412. Hazardous materials committee.

7-401. Definitions. For the purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively:

- (1) "Hazardous substance" means any of the following:
 - (a) Any hazardous waste.
 - (b) Any radioactive material.
 - (c) Any acutely toxic chemicals defined in Chemical Emergency Preparedness Program, Appendix A--List of Acutely Toxic Chemicals, Environmental Protection Agency, Washington, D. C., November 1985, and as amended.
 - (d) Any substance defined in the Registry of Toxic Effects of Chemical Substances (RTECS), as amended.
 - (e) Any substance indicated in 49 CFR 172.101, for explosive, flammable, reactive, and corrosive chemicals, as amended.
 - (f) Any material which is listed on the list of Environmental Protection Agency pollutants, 40 CFR 401.15, as amended.
 - (g) Any chemical substance listed below, or mixture containing any chemical substance listed below:
 - (i) PCB or PCBs (polychlorinated biphenyl).
- (2) "Hazardous waste" means any substance, combination of substances or mixtures defined as "hazardous waste" in 40 CFR, Part 261, Subpart A, Section 261.3 which is not specifically excluded under Section 261.4 (b) under said Title or this chapter of the Tullahoma Code of Ordinances. The provisions of 40 CFR Part 261, Subpart A, Section 261.2, 261.3, and 261.4, and corresponding sections of Subparts C and D and appendices cited therein, which

define, describe, and identify hazardous waste are hereby incorporated by reference into this section and made a part hereof the same as if each were set forth fully herein. All subsequent amendments to said provisions of Subparts C and D and appendices cited therein which define, describe, and identify hazardous waste, and the sections of Subpart B specifically delineated herein, automatically become a part of this section as of the effective date of each amendment, subject to the provisions of this section. Hazardous wastes do not include chemical substances or mixtures listed in (1) (f) or any radioactive material.

(3) "Chemical substance" except as provided in Subparagraph (3) of this paragraph, means any organic or inorganic substance of a particular molecular identity, including:

(a) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and

(b) Any element or uncombined radical.

(c) Such term does not include:

(i) Any mixture.

(ii) Any pesticide (as defined in the Federal Insecticide, Fungicide, and Rodenticide Act) when manufactured, processed, or distributed in commerce for use as a pesticide.

(iii) Tobacco or any tobacco product.

(iv) Any source material, special nuclear material, or by-product material (as such terms are defined in the Atomic Energy Act of 1954, as amended, and regulations issued under such Act, and the Energy Reorganization Act of 1974 and any regulations issued under such Act).

(v) Any article the sale of which is subject to the tax imposed by section 4181 of the Internal Revenue Code of 1954 (determined without regard to any exemptions from such tax provided by section 4182 or section 4221 or any provisions of such Code), and

(vi) Any food, food additive, drug, cosmetic, or device (as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act) when manufactured, processed, or distributed in commerce for use as food, food additive, drug, cosmetic, or device.

(4) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that such term does include any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.

(5) "By-product" means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).

(6) "Use"--putting into service to attain an end other than disposal.

(7) "Store for disposal" means to store, confine or contain for or incidental to discarding, destroying, decontaminating, degrading, reprocessing or recycling of substances whose useful life has been terminated or completed, or which have otherwise been taken out of service.

(8) "Person" means any natural or legally created artificial person including any individual, corporation, partnership, or association. "Person" includes any individual partnership, association, or corporation engaged in the transportation of passengers or property, as common, contract, or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.

(9) "Radioactive material" means any material or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.

(10) "Curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second; a curie is that quantity of radioactive materials which decays such that 37 billion atoms disintegrate per second.

(11) "Microcurie" means one millionth of a curie.

(12) "Waste oil"--used products primarily derived from petroleum, which includes, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids and dielectric fluids.

(13) "Hazardous substance disposal site" means any chemical waste landfill or incinerator used to dispose of hazardous substances.

(14) "Chemical waste landfill" means a landfill at which protection against risk of injury to health or the environment from migration of hazardous substances to land, water, or the atmosphere is provided from hazardous substances deposited therein by locating, engineering, and operating the landfill in accordance with federal and state law. (1988 Code, § 7-401)

7-402. General requirements. (1) The manufacture, storage, on-site transportation or use of hazardous materials shall be safeguarded with such protective devices as public safety requires.

(2) The chief of the fire department may require the following:

(a) The separation or isolation by both primary and secondary containment of any material that, in combination with other substances, may bring about fire or explosion, or may liberate a flammable or poisonous gas, or cause the deterioration of the primary or secondary containment.

(b) The separation of occupancies or buildings from other storage when the quantity of hazardous materials stored constitutes a fire or life hazard.

(3) Defective storage facilities which permit leakage or spillage shall be disposed of or repaired in accordance with recognized safe practices; no spilled hazardous material shall be allowed to accumulate on floors or shelves.

(4) Where kept for retail sale in containers or packages usual to the retail trade, storage of hazardous materials shall be neat and orderly and shelves shall be of substantial construction. Hazardous material contained solely in consumer products stored in retail establishments or used by the general public or commercial products used at the facility solely for janitorial or minor maintenance purposes are excluded from the requirements of subdivision (10) of this section.

(5) Where specific requirements are not otherwise established, storage, transportation or use of hazardous materials shall be in accordance with nationally recognized standards or good practices. This may require that the permittee retain a suitably qualified independent engineer, or chemist, or other appropriate professional consultant, acceptable to the hazardous materials committee for the purpose of evaluating and rendering a professional opinion respecting the adequacy of such practice to achieve the purpose of this chapter. The committee shall be entitled to rely on such evaluation and/or opinion of such engineer, chemist or professional consultant in making the relevant determinations provided for in this chapter.

(6) Visible hazard identification signs as specified in U.F.C. Standard No. 79-3 shall be placed at all entrances to and in locations where hazardous materials are stored, handled or used in quantities requiring submission of a Hazardous Materials Management Plan. Labels shall conform with U.F.C. Standard No. 79-3 for size and color and shall be affixed to tank, vessel or container so as to be conspicuously visible at all times.

(7) Satisfactory provisions shall be made for containment, neutralization and removal of spills or leakage of hazardous materials which may occur during storage, handling, transportation or use. This shall include necessary safety equipment for personnel.

An inventory of the above items shall be provided to the fire department. The equipment shall be regularly tested and adequately maintained. Safety equipment used by personnel for fire fighting or chemical spill emergencies shall be compatible with the same equipment used by the City of Tullahoma Fire Department.

EXCEPTION--Equipment, already in existence but not compatible with fire department equipment, but easily adaptable, shall have adapters available.

(8) Material safety data sheets shall be readily available for all hazardous materials on the premises.

(9) Storage facilities shall be secured in such a manner as to prevent unauthorized access.

(10) An annual inventory of hazardous materials shall be provided to the fire chief on approved forms and said list shall identify the location of use, storage, amount, name, and hazard of each material.

Any change to the inventory that would create a new hazard class or exceeds the permit quantity limit shall be submitted to the fire chief for approval before the change is made. (1988 Code, § 7-402)

7-403. Hazardous material management plan. Each applicant for a hazardous materials permit pursuant to this chapter shall file a written plan, for hazardous materials committee approval, to be known as a hazardous materials management plan (HMMP), which shall demonstrate the suitable storage of hazardous materials. The HMMP may be amended at any time with the consent of the board of mayor and aldermen. The HMMP shall be a public record except as otherwise specified. Approval of the HMMP shall mean that the HMMP has provided adequate information for the purposes of evaluating the permit approval. Such approval shall not be understood to mean that the hazardous materials committee has made an independent determination of the adequacy of that which is described in the HMMP.

(1) Short form HMMP-- minimal storage site.

(a) The short form hazardous materials management plan may be submitted for a storage facility if the quantity of each hazardous material stored in one or more storage facilities in an aggregate quantity for the facility, is 500 pounds for solids, 55 gallons or less for liquids, or 200 cubic feet or less at standard temperature and pressure (STP) for compressed gases. All other facilities shall file a standard HMMP (See subsection 2 below).

(b) The applicant for a permit for a facility which qualifies as a minimal storage site may choose to file the short form hazardous materials management plan with the approval of the hazardous materials committee. Such plan should include the following components:

(i) General information required in the application form;

(ii) A simple line drawing of the facility showing the location of the storage facilities and indicating the hazard class or classes and physical state of the hazardous material(s) being stored and whether any of the material is a waste;

(iii) Information describing the manner that hazardous materials will be stored;

(iv) Description of emergency equipment to be maintained on the premises;

(v) Statement that the disposal of any hazardous materials will be in an appropriate manner as determined by the hazardous materials committee.

(vi) Demonstrate compliance with the Tennessee "Right-To-Know" provisions based on OSHA "HAZARDOUS

COMMUNICATION" 1910.1200 passed May 23, 1985, as a law to become effective on May 25, 1986.

(2) Standard form HMMP. The standard form hazardous materials management plan must be submitted unless the facility qualifies as a minimal storage site under subsection (1) above. The standard form HMMP shall include the following:

(a) General information/facility description.

(i) General information. The HMMP shall contain the name and address of the facility and business phone number of applicant, the name and titles and emergency phone numbers of the primary response person(s) and alternate(s), the number of employees, number of shifts, hours of operation, and principal business activity.

(ii) General facility description. The HMMP shall contain a map drawn to scale and in a format and detail as determined by the hazardous materials committee and shall specify the location of all buildings and structures, chemical loading areas, parking lots, internal roads, storm and sewer drains, and the uses of adjacent properties.

The plan shall require information as to the location of wells, flood plains, surface water bodies, and/or general land uses (schools, hospitals, institutions, residential areas) within one mile of the facility boundaries.

(b) Facility storage map. The HMMP shall be accompanied by a map drawn to scale as approved by the hazardous materials committee. The facility storage map shall indicate the location of each hazardous material storage facility, including all interior, exterior, and underground storage facilities, and the manner of access to such storage facilities. In addition, the map shall indicate the location of emergency equipment that is used in connection with each storage facility, the general purpose of the other areas within each facility, and;

(i) A floor plan to scale and the permit quantity limit;

(ii) A list of each non-waste hazardous material which is stored in a quantity greater than the quantities specified in subsection (1) above which list shall include: general chemical name, common/trade name, major constituents for mixtures, North American (NA) number, if available, and physical state of such non-waste hazardous material;

(iii) A list of each waste hazardous material, using the above guidelines wherever practical;

(iv) A description of the hazard class or classes, the quantity range for each such class or classes aggregated within each storage facility for every type of hazardous material that is included within the following ranges.

(c) Hazardous materials inventory statement. A hazardous materials inventory statement shall be filed in accordance with general requirements § 7-402(10) above.

(d) Separation of materials. The HMMP shall include a description of the methods to be utilized to ensure separation and protection of stored hazardous materials from factors which may cause a fire or explosion, or the production of a flammable, toxic, or poisonous gas, or the deterioration of the primary and secondary containment.

(e) Monitoring program. The HMMP shall include a description of the location, type, manufacturer's specifications (if applicable), and suitability of monitoring methods to be used in each storage facility storing hazardous materials. It shall also specify the frequency of inspections of storage facilities which will be conducted by the permittee.

(f) Record keeping forms. The HMMP shall include an inspection checksheet or log designed to be used in conjunction with routine inspections. The checksheet or log shall provide for the recording of the date and time of any corrective action taken, the name of the inspector, and the counter signature of the designated safety official for the facility or the responsible official as designated in the HMMP.

(g) Emergency equipment. The HMMP shall include a statement of emergency equipment availability, testing, and maintenance.

(h) Drainage plan. The HMMP shall include a statement as to the manner that drainage of hazardous materials is to be provided.

(i) Additional information. Additional information may be required in connection with the HMMP if such information is reasonably necessary to meet the intent of this section. Requirements for information in the HMMP may be waived where such information is not reasonably necessary to meet the intent of this section. Whenever a permittee has submitted a plan which includes substantially the same information as is required for any component(s) of the HMMP to any other public agency regulating hazardous materials, such plan may be submitted to the hazardous materials committee in lieu of such component(s).

(j) Annual update. The facility storage map shall be updated annually or whenever an additional approval is required for the facility or whenever the hazardous materials inventory statement is required to be amended pursuant to the general requirements § 7-402(10) above.

(k) Confidentiality of information. The fire department and hazardous materials committee shall not disclose any information to the public without the consent of the permittee or permit applicant unless ordered to do so by a court of competent jurisdiction. The permittee or permit shall be deemed a real party in interest in any such action. Prompt notice of a law suit to compel disclosure shall be given by the fire

department or hazardous materials committee to a permittee or permit applicant. However, the fire department or hazardous materials committee shall be under no duty to prevent disclosures where there has been any unauthorized discharge of hazardous materials stored in a storage facility (ies) shown on such map or where such disclosure arises out of any official emergency response relating to the storage facility (ies). (1988 Code, § 7-403)

7-404. Transportation and shipment of radioactive material. No person shall ship or transport into, within, through or out of the city any radioactive material contrary to the applicable federal regulations of the United States Department of Transportation and the United States Nuclear Regulatory Commission in effect at date of shipment or transport. (1988 Code, § 7-404)

7-405. Transportation, shipment and underground storage of hazardous materials. (1) No person shall ship or transport into, within, through or out of the city any hazardous materials contrary to the applicable federal regulations of the United States Department of Transportation or applicable state regulations of the Tennessee Department of Transportation, or the Tennessee Public Service Commission in effect at the date of shipment or transport.

(2) No person shall bury or cause to be buried any underground storage container or tank designed to be used for the storage of any toxic or flammable material without the inspection and approval of the fire chief or his designated representative. The fire chief or emergency management office shall be notified prior to removal of any such containers or tanks presently buried within the city limits and shall be inspected upon removal to determine if leakage shall have occurred. Any contamination of soil or ground water from leaking underground storage tanks shall be the responsibility of the tank owner, and clean up must satisfy the requirements of the applicable state and federal agencies. (1988 Code, § 7-405)

7-406. Disposal of hazardous waste. (1) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake or pond, water course or ditch, into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma.

(2) No person shall knowingly cause any other persons by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer, or culvert, into any lake, pond, water course or ditch, or into any pit or

excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma.

(3) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, water course, or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City of Tullahoma. (1988 Code, § 7-406)

7-407. Exemptions. (1) The provisions of this chapter shall not apply to the storage or disposal of hazardous waste, and PCB or PCBs in any hazardous substance disposal site specifically approved by either the United States Environmental Protection Agency or the Tennessee Environmental Protection Agency and which comport to federal and state law.

(2) A person may petition the board of mayor and aldermen or its designee for an exemption from the requirements of this chapter, and the board of mayor and aldermen or its designee may grant in writing an exemption, where not precluded by state or federal law, if it finds that:

(a) Unreasonable risk of injury to health or environment would not result;

(b) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB;

(c) The best interest of the city would be served by granting an exemption. (1988 Code, § 7-407)

7-408. Inspections. The fire chief, fire marshall, or a designated representative, any law enforcement officer, or building, housing, or zoning inspector shall have the authority to inspect all structures and premises, as often as may be necessary for the purposes of ascertaining or causing to be corrected, any condition which may be a violation of this chapter, or otherwise enforcing any of the provisions of this chapter. Only certified fire and building inspectors are empowered to cite offenders for violations in judicial proceedings. (1988 Code, § 7-408, modified)

7-409. Right of entry. Whenever necessary for the purpose of enforcing the provisions of this chapter, or whenever the fire chief, fire marshall, or his designated representative, any law enforcement officer, or any building, housing or zoning inspector has reasonable cause to believe that there exists in any structure or upon any premises, any condition which constitutes a violation of this chapter, said officials may enter such structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of said respective officials by law; provided that if such structure or premises be

occupied, he shall first present proper credentials and request entry. If such entry is refused, the official seeking entry shall recourse to every remedy provided by law to secure entry. (1988 Code, § 7-409)

7-410. Penalties. (1) Any person who knowingly violates any of the provisions of this chapter shall be subject to a civil penalty of \$500 for each such violation.

(2) If any violation of the provisions of this chapter is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed \$25,000 for any related series of violations.

(3) The city attorney shall have the authority to commence an action in a court of competent jurisdiction to enforce the penalty provisions of this section.

(4) Any civil penalty under this section may be compromised by the city attorney with approval by the board of mayor and aldermen. In determining the amount of such penalty or whether it should be remitted or mitigated and in what amount, the appropriateness of such penalty to the size of the business or the person charged and the gravity of the violation shall be considered.

(5) Any individual director, officer, or agent of a corporation who knowingly authorizes, orders or performs any of the acts constituting in whole or in part a violation of this chapter shall be subject to the penalties under this section without regard to any civil penalties to which the corporation may be subject. (1988 Code, § 7-410, modified)

7-411. Injunctive relief. Violation of the provisions of this chapter shall constitute a public nuisance. The city attorney shall have the authority to commence any action in a court of competent jurisdiction to enjoin the actions of any person who violates any of the provisions of this chapter. (1988 Code, § 7-411)

7-412. Hazardous materials committee. The hazardous materials committee shall be composed of the following members: (or their designated representatives)

- Fire chief
- Fire marshall
- Police chief
- Building inspector
- City administrator

The committee shall be responsible for the enforcement of the provisions of this chapter. The committee shall also review for approval all hazardous materials management plans. The committee shall keep all records of

proceedings including those documents filed in accordance with the requirements of this chapter. (1988 Code, § 7-412, modified)

CHAPTER 5

OPEN BURNING

SECTION

7-501. Purpose.

7-502. Definition of terms.

7-503. Standards for open burning.

7-504. Permits.

7-505. Penalties.

7-501. 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. #1241, Sept. 2001)

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. "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 Tullahoma 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. #1241, Sept. 2001)

7-503. 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 Tullahoma without a permit.

1. No person shall willfully start or cause to be started any open fire within the corporate limits of Tullahoma 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 wind or other hazardous conditions exist to prohibit burning either statewide or in regions affecting the geographical or corporate limits of Tullahoma.

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

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 thirty (30) feet 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 5:00 P.M. local time. (as added by Ord. #1241, Sept. 2001)

7-504. Permits. Burn permits will obtained from the fire chief or his designee.

1. Permits issued under this chapter shall be under either one of two classes; standard class and large class.

a. Standard class permits are for leaves and materials under three (3) cubic yards and may be issued by the fire chief or his designee by telephone. Standard class permits shall be good for one day between the hours of 11:00 A.M. and 4:00 P.M. 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 are necessary to identify the burning which is allowed under the permit.

3. Burn sites containing three (3) cubic yards or more of 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 Tullahoma.

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 Tullahoma.

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 as 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 Tullahoma.

9. The fire chief 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 Tullahoma it is required. (as added by Ord. #1241, Sept. 2001)

7-505. Penalties. Any person violating the provisions of this chapter, or of any permit issued under the authority of this chapter, or any provisions herein, shall be subject to the provisions of § 1-107 of the Code of Ordinances of the City of Tullahoma, 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 Tullahoma, Tennessee. (as added by Ord. #1241, Sept. 2001)

CHAPTER 6

FIREWORKS

SECTION

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7-601. Definitions. (1) As used in this chapter, unless the content otherwise requires:

(a) "D.O.T. 1.4G Consumer Fireworks" means all articles of fireworks as are now or hereafter classified as 1.4G or formerly referred to as "D.O.T. Class C Common Fireworks" in the regulations of the United States Department of Transportation.

(b) "Mobile retailer" means a vendor operating from motor vehicles, trailers, bicycles, or motor bikes.

(c) "Permit" means the written authority of the City of Tullahoma issued under the authority of this section.

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

(e) "Retailer" means any person engaged in the business of making retail sales of fireworks to the general public.

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

(g) "State Fire Marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(2) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #1280, March 2004, as replaced by Ord. #1520, May 2019 **Ch10_6-22-20**)

7-602. Permits and permit fees. (1) It shall be unlawful for any person to sell, offer for sale, ship, or cause to be shipped, into the City of Tullahoma any item of fireworks without first having secured a state fire marshal permit, and a permit issued by the City of Tullahoma.

(2) Permits are not transferable.

(3) A permit (to sell fireworks to the general public) shall be valid only from June 20 through July 9 or December 21 through January 5.

(4) The City of Tullahoma shall charge a permit fee in the amount of one thousand dollars (\$1,000.00) for the summer period and five hundred dollars (\$500.00) for the winter period as provided for in this section for retail permits.

(5) The fee for public display events using Special Display (1.3G) fireworks shall be five dollars (\$5.00).

(6) The fee schedule may be revised from time to time by adoption of the annual budget ordinance and fee schedules.

(7) Community groups such as schools, weddings, business, and civic clubs who desire to have a group display of 1.3G Special Display or 1.4G Consumer Fireworks may obtain a permit to use fireworks for any time of the year if a five dollar (\$5.00) permit is obtained from the City of Tullahoma.

(8) A permit to sell fireworks in the City of Tullahoma must be obtained at least one (1) week prior to the date on which the applicant desires to begin making sales. Each application shall contain the following:

(a) Name, address, and telephone number of applicant. The applicant must be the natural person who will operate or be responsible for sales. The applicant's name shall also be the same as the name on the state fire marshal permit. The applicant shall be liable for all violations of this ordinance by persons under their supervision. A copy of the state fire marshal permit. (In order for a state permit to be obtained by a retailer, the city administrator, or mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(b) Any person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(c) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of adjacent structures that are occupied, location and number of the parking places, location of any nearby residences, location of adjacent fuel outlets and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(d) Mobile vendors are not permitted.

- (e) Flashing signs are not permitted.
- (f) One (1) double-faced sign is permitted, however, each sign face shall not exceed thirty-six (36) square feet.
- (g) Evidence that general liability insurance has been obtained by applicant naming the City of Tullahoma as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage liability combined.
- (h) The location where the applicant will conduct the business of selling fireworks and the dates for which the right to do business is desired.
- (i) Applicant shall pay one hundred dollars (\$100.00) clean-up deposit per location, which shall be refunded after the fireworks season, or used by the city to clean up the retail fireworks site, if needed.
- (j) After the application has been submitted and approved, a city codes inspector shall inspect the site for compliance. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-603. Separate sales and tax numbers required. A separate sales and use tax number shall be required for each location where consumer fireworks are sold. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-604. Permit revocation. The codes director and/or fire official shall be authorized to revoke any permit upon failure of retailer to correct any of the following conditions within thirty six (36) hours after written notice is given by the codes director.

- (1) In the event that the permittee or the permittee's operator violates any lawful rule, regulation, or order of the City Codes Director of Tullahoma.
- (2) In the event that the permittee's application contains any false or untrue statements.
- (3) In the event the permittee fails to timely file and/or pay any report, tax, fee, fine, or charge.
- (4) In the event the permittee or the permittee's operator violates any fireworks ordinance or statute.
- (5) In the event any activities of the permittee constitute a distinct hazard to life or property, the permit may be revoked immediately by said codes director and/or fire official. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-605. Permissible fireworks. It is unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the City of Tullahoma

or ship into the city, 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 by the U.S. Department of Transportation as 1.4G Consumer 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.

(3) Any display event using 1.3G Display Fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-606. Sale of fireworks. Permissible items or fireworks may be sold within the City of Tullahoma only from June 20 through July 5 and December 21 through January 1 of each year. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-607. Storing and structures. No person shall smoke within a structure where fireworks are sold. No person selling fireworks shall permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. 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. An inspected and currently tagged 10# ABC rated portable fire extinguisher must be present at each retail fireworks site. Fireworks sold at retail shall only be sold from a free-standing structure. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-608. Limitations on structures. Tents meeting the current adopted Standard Building Code and Standard Fire Prevention Code may be used for the retail sale of fireworks. No structure from which fireworks are sold shall exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-609. Location of fireworks outlets. Fireworks sales structures shall be no closer than sixty feet (60') from any occupied building. Fireworks sales are only permissible on commercial/industrial property as approved by the planning department and the sales structure must be located a minimum of forty-five feet (45') from the right of way. Any fireworks sales structure must be at least one hundred fifty feet (150') from a residence. Fireworks sales are not allowed on

any property where there is an existing retail business that is operated from a building in excess of one hundred twenty five thousand (125,000) square feet. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-610. Parking for retail firework sales site. The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved parking places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-611. Additional standards for fireworks retailers. (1) Any site for a fireworks retailer must be located so that all parts of the structure and fireworks inventory on the site are no closer than one hundred feet (100') to any fuel source.

(2) The parcel in which a fireworks retail use is required shall be a minimum of seven hundred and fifty feet (750') from other similar uses. This distance shall be measured the closest distance from structure to structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location.

(3) Each retailer must provide for each site toilet facilities for the retailer's employees.

(4) Each retailer must conspicuously post a sign notifying the public of the requirements of the §§ 7-612, 7-613 and 7-615. Said signs shall not exceed six (6) square feet in size and shall not contain advertising.

(5) Each retailer shall provide adequate generators, which shall be placed no closer than ten feet (10') from any tent or structure, and protected from rain. (as added by Ord. #1280, March 2004, amended by Ord. #1302, Nov. 2004, and replaced by Ord. #1520, May 2019 *Ch10_6-22-20*)

7-612. Children, unlawful sale and use of fireworks. It shall be unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age or to any intoxicated or seemingly irresponsible person. It shall be unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any person or throw any ignited article of fireworks into or at such motor vehicle, or at or near any person or group of persons. A user of fireworks shall not ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property. Fireworks shall not be launched or fired onto property of persons who

have not given permission. Fireworks shall not be used at times, places, or in any manner, which adversely affects other persons. Fireworks shall not be used during a burning ban declared by either the State of Tennessee or the Tullahoma Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10_6-22-20**)

7-613. Limited time period to use fireworks. It shall be unlawful to discharge or use fireworks except for the following time periods:

(1) July 1 through July 4 --- The permissible hours shall only be from 10:00 A.M. to 10:30 P.M. except for July 4 when the permissible hours shall be from 10:00 A.M. to 11:30 P.M.

(2) December 31 and January 1 -- The permissible hours shall only be from four (4) hours before and one (1) hour after the start of the new year. (as added by Ord. #1280, March 2004)

7-614. Exclusions. Nothing in this chapter shall be construed to prohibit:

(1) The sale of any kind of fireworks which are to be shipped directly out of the corporate limits of the city in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and water.

(2) The use of fireworks by railroads or other transportation agencies for signal purposes or illumination.

(3) The sale or use of blank cartridges for theater, or sporting events.

(4) The use of fireworks for military operations of agencies of the state or federal government.

(5) The use of fireworks for purposes under conditions approved by the fire chief or his designee.

(6) Supervised displays of fireworks or hereinafter provided. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10_6-22-20**)

7-615. Penalty for violation. All individuals that violate any provision of this chapter shall be guilty of an offense and upon conviction shall be punished by a fine not to exceed fifty dollars (\$50.00) plus costs. Each violation or transaction shall be considered a separate violation. (as added by Ord. #1280, March 2004, and replaced by Ord. #1520, May 2019 **Ch10_6-22-20**)