

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE TOWN LIMITS.
5. FIREWORKS.

CHAPTER 1

FIRE DISTRICT

SECTION

7-101. Fire limits described.

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

Any place reachable by the fire hose from fire hydrant. (1997 Code, § 7-101)

¹Municipal code reference

Building, utility and housing codes: title 12.

CHAPTER 2

FIRE CODE

SECTION

- 7-201. Fire code adopted.
- 7-202. Modifications.
- 7-203. Definition of "municipality."
- 7-204. Gasoline trucks.
- 7-205. Variances.
- 7-206. Violations and penalties.

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 prescribing regulations governing conditions hazardous to life and property from fire or explosion, the Uniform Fire Code (NFPA 1), 2003 edition, including each reference in NFPA 1, Chapter 2 (excluding NFPA 5000), is hereby adopted by reference and included as a part of this code. Each reference in the Uniform Fire Code, Chapter 2, to an NFPA code or standard shall be deemed to be the edition printed in the National Fire Codes, 2003 edition. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the Uniform Fire Code has been filed with the town recorder and is available for public use and inspection. The Uniform Fire Code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits.

7-202. Modifications. The Uniform Fire Code adopted in § 7-201 above is modified by deleting therefrom section 1.10, titled Board of Appeals, in its entirety; § 7-205 below shall control appeals.

7-203. Definition of "municipality." Whenever the word "municipality" is used in the uniform fire code herein adopted, it shall be held to mean the Town of Englewood, Tennessee.

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.

7-205. Variances. The chief of the fire department may recommend to the board of board of commissioners variances from the provisions of the uniform 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 board of commissioners.

7-206. Violations and penalties. It shall be unlawful for any person to violate any of the provisions of this chapter or the Uniform 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 taken; or fail to comply with such an order as affirmed or modified by the board of board of commissioners or by a court of competent jurisdiction, within the time fixed herein. The violation of any section of this chapter shall be punishable under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions.

CHAPTER 3

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 responsible for training.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of commissioners of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the town manager and such number of physically fit subordinate officers and firemen and the board of commissioners shall authorize and the town manager shall appoint. (Ord. #091205-68, Oct. 2005)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To enforce fire prevention regulations.
- (2) To prevent the loss of life and property in case a fire does start.
- (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. (1997 Code, § 7-302)

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 fire department. (1997 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel,

¹Municipal code reference

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

and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1997 Code, § 7-304)

7-305. Tenure and compensation of members. The chief shall hold office so long as his conduct and efficiency are satisfactory to the town manager. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. All disciplinary action taken by the chief shall first be reviewed and confirmed by the town manager, before any action is taken.

All personnel of the fire department shall receive such compensation for their services as the board of commissioners may from time to time prescribe. (Ord. #091205-68, Oct. 2005)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firemen, and the minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1997 Code, § 7-306)

7-307. Chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department 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. (1997 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-401. Restrictions on fire service outside town limits.

7-401. Restrictions on fire service outside town limits. The board shall have full power and authority to authorize the use of the town's fire-fighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

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

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

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

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

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

(c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.) (1997 Code, § 7-401, modified)

CHAPTER 5

FIREWORKS

SECTION

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

7-501. Purpose. The purpose of this chapter is to provide an ordinance for regulation of the manufacture, sale, display and use of certain fireworks for both private and public display within the corporate limits of the Town of Englewood, Tennessee setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (1997 Code, § 7-501)

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

(1) "Distributor" means any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a retailer, wholesaler, or any person who receives, brings, or imports any fireworks of any kind, in any manner into the Town of Englewood, except to a holder of a manufacturer's, distributor's or wholesaler's permit issued by the state fire marshal and the Englewood Mayor or his designee.

(2) "D.O.T. Class C common fireworks" means all articles of fireworks as are now or hereafter classified as "D.O.T. Class C common fireworks" in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

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

(4) "Permit" means the written authority of the city mayor or his designee issued under the authority of this chapter.

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

(6) "Retailer" means any person engaged in the business of making retail sales of firework at specified times during the year as provided herein.

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

(8) "Special fireworks" means all articles of fireworks that are classified in Class B explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified in Class C. (1997 Code, § 7-502)

7-503. Permit required. It shall be unlawful for any person to sell, offer for sale, ship or cause to be shipped into the Town of Englewood, except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler or retailer, from both the Town of Englewood Mayor or his designee and the state fire marshal, possession of said permits being hereby made a condition prerequisite to selling or offering for sale, shipping or causing to be shipped any fireworks into the Town of Englewood, except as herein provided. Permits issued under this section are not transferable. No permit shall be issued for manufacturing of fireworks within the town as the same is prohibited. (1997 Code, § 7-503)

7-504. Permit fee. The permit fee for the permit provided for in § 7-503 of this chapter shall be two hundred fifty dollars and the permit shall be valid for thirty (30) days. However, the board of commissioners may in its discretion waive the permit fee for any non-profit organization requesting the permit. (1997 Code, § 7-504)

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

7-506. Permissible types of fireworks. It is unlawful for any individual, firm, partnership or corporation to possess, sell or use within the Town of Englewood, or ship into the Town of Englewood, except as provided in this chapter, any pyrotechnics commonly known as "fireworks" other than the following permissible items:

(1) Those items now or hereafter classified as D.O.T. Class 5 C common fireworks; or

(2) Those items that comply with the construction, chemical composition and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations. (1997 Code, § 7-506)

7-507. Conditions for sale and use permissible items. No permissible articles of common fireworks, shall be sold, offered for sale, or possessed within the Town of Englewood, or used within the town, unless it is properly named and labeled to conform to the nomenclature of allowed fireworks and unless it is certified an "common fireworks" on all shipping cases and by imprinting on the article or retail container "D.O.T. Class C common fireworks," such imprint to be of sufficient size and so positioned as to be readily recognized by law enforcement authorities and the general public. The Fire Marshal of the State of Tennessee regulations relative to the possession and sale of fireworks, their storage and safety requirements, are here and now incorporated by reference herein, together with the National Fire Protection Association (NFPA 1124), and the Standard Fire Prevention Code, all in full force and effect within the town. (1997 Code, § 7-507)

7-508. Retail sale of permissible items--time limitations--exceptions. Permissible articles of fireworks may be sold at retail to residents of the Town of Englewood and used within the Town of Englewood from June 20th through July 5th, and December 10th through January 2nd of each year only, except that "fireworks" does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing twenty-five one-hundredths (25/100) grains or less of explosive compounds are used, provided they are so constructed that the hand cannot come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths (25/100) grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over one hundred (100) grams of composition per item (sparklers containing chlorate or perchlorate sales may not exceed five (5) grams of composition per item), emergency flares, matches, trick matches, and cigarette loads, the sale and use of which shall be permitted at all times. (1997 Code, § 7-508)

7-509. Public displays--permits--regulation. Nothing in this chapter shall be construed as applying to the shipping, sale, possession, and use of fireworks for public displays by holders of a permit for a public display to be conducted in accordance with the rules and regulations promulgated by the state fire marshal. Such items of fireworks which are to be used for public display only and which are otherwise prohibited for sale and use within the Town of Englewood shall include display shells designed to be fired from mortars and display set pieces of fireworks classed by the regulation of the United States Department of Transportation as "Class B special fireworks" and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs and torpedoes. Public displays shall be performed only under competent supervision, and after the persons or organizations making such displays shall have received written approval from the police chief and city mayor or his designee, and applied for and received a

permit for such displays issued by the state fire marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks displays shall be confined to holders of a distributors permit only. (1997 Code, § 7-509)

7-510. Regulations governing storing, locating or display of fireworks. (1) Placing, storing, locating or displaying fireworks in any window where the sun may shine through glass onto the fireworks so displayed or to permit the presence of lighted cigars, cigarettes, or pipes within ten (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 vanishes are for sale or use, unless such paints, oils or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

(2) All firework devices that are readily accessible to handling by consumers or purchaser, must have their fuses protected in such a manner as to protect against accidental ignition of an item by spark, cigarette ash or other ignition source. Safety-type thread-wrapped and coated fuses shall be exempt from this provision.

(3) All fireworks devices sold under a duly issued permit must be located not less than three hundred (300) feet from any gasoline dispensing pump.

(4) As permits are temporary for a period not to exceed thirty (30) days, the permit shall state any sales site must be at all times free from litter and debris, including the termination date of authorized selling periods. Violation of this provision, for which citation may issue, may give cause to refuse issuance of another permit for a period not to exceed three (3) years. (1997 Code, § 7-510)

7-511. Unlawful acts in the sale, handling or private use of fireworks. (1) It is unlawful to:

(a) Offer for retail sale or to sell any fireworks to children under the age of ten (10) years or to any intoxicated or irresponsible person;

(b) Explode or ignite fireworks within six hundred (600) feet of any church, hospital, asylum, public school or within five-hundred (500) feet of where fireworks are stored, sold or offered for sale, or within five hundred (500) feet of a gasoline retailer or wholesale storage facility;

(c) Ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle while within, nor shall any

person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people;

(2) All items of fireworks which exceed the limits of D.O.T. Class C common fireworks as to explosive composition, such items being commonly referred to as "illegal ground salutes" designed to produce an audible effect, are expressly prohibited from shipment into, manufacture, possession, sale or use within the Town of Englewood for any purpose. This subsection shall not effect display fireworks authorized by this chapter.

(3) Fail to comply with the town's zoning ordinance relative to minimum front building line set back requirements set forth in said ordinance at a retail sale site. (1997 Code, § 7-511)

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

(2) Before any seized fireworks may be destroyed:

(a) If the owner of such seized fireworks is known, the city mayor or his designee shall give notice by registered mail or personal service to such owner, of the fire chief's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the city mayor or his designee shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

(b) If the identity of the owner of any seized fireworks is not known to the city mayor or his designee, the city mayor or his designee shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the fire chief's intention to destroy such fireworks. The notice shall be published once each week for three (3) consecutive weeks and if no person claims ownership of the fireworks within ten (10) days of the date of the last publication, the fire chief may proceed to destroy the fireworks. If the owner does claim the fireworks within the time specified, a hearing as set out in this subsection shall be held. (1997 Code, § 7-512)

7-513. Penalty for violation. Any individual, firm, partnership or corporation that violates any provision of this chapter, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00). In addition, the Town of Englewood may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three (3) years. (1997 Code, § 7-513)

7-514. Exceptions to application. 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, of the State of Tennessee or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to the transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser first secures a written permit to purchase and use fireworks for agricultural purposes only from the state fire 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 Town of Englewood. (1997 Code, § 7-514)