

## CHAPTER 4: FIREWORKS

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### ***Cross-reference:***

*Business and solicitors, see Title 9*

*Fire Code, see Title 7, Chapter 1*

*Open burning, see Title 7, Chapter 5*

### **§ 7-401 PURPOSE.**

The purpose of this chapter is to provide 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, setting certain guidelines which shall provide for the general safety and welfare of the citizens thereof.

(2007 Code, § 7-401)

**§ 7-402 DEFINITIONS.**

As used in this chapter, the following terms shall have the meaning ascribed to them herein in accordance with T.C.A. § 68-104-101, unless clearly indicated otherwise.

***DISTRIBUTOR.*** 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, except to a holder of a manufacturer's, distributor's, or wholesaler's permit issued by the State Fire Marshal and the Town Manager.

***D.O.T. CLASS C COMMON/1.4G FIREWORKS.*** All articles of fireworks as are now or hereafter classified as ***D.O.T. CLASS C COMMON/1.4G FIREWORKS*** in the regulations of the United States Department of Transportation for transportation of explosive and other dangerous articles.

***MANUFACTURER.*** Any person engaged in the making, manufacture, or construction of fireworks of any kind within the town.

***PERMIT.*** The written authority of the Town Manager issued under the authority of this chapter.

***PERSON.*** Any individual, firm, partnership, or corporation.

***RETAILER.*** Any person engaged in the business of making retail sales of firework at specified times during the year as provided herein.

***SALE.*** 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, copartnership, or one or more individuals.

***SPECIAL FIREWORKS.*** All articles of fireworks that are classified as Class B/1.3G explosives in the regulation of the United States Department of Transportation and includes all articles other than those classified as Class C.

(2007 Code, § 7-402)

**§ 7-403 PERMIT REQUIRED.**

Any person, corporation, or business entity desiring to sell fireworks, as defined in T.C.A. § 68-104-108, shall first secure and obtain any and all necessary permits and comply with any and all rules and regulations set forth in T.C.A. § 68-104-101 and all following code sections pertaining to fireworks thereafter stated including all provisions through T.C.A. § 68-104-116 to the extent the same are not in conflict with the further provisions of this chapter.

(2007 Code, § 7-403)

**§ 7-404 PERMIT FEE.**

The permit fee for the permit provided for in § 7-403 shall be established by a fee schedule adopted as a part of the budget ordinance, and the permit shall be valid for 30 days. However, the Town Council may, in its discretion, waive the permit fee for any non-profit organization requesting the permit.  
(2007 Code, § 7-404)

**§ 7-405 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. Permittees shall comply with the town fireworks permit requirements on file with the Town Clerk.  
(2007 Code, § 7-405)

**§ 7-406 PERMISSIBLE TYPES OF FIREWORKS.**

It is unlawful for any individual, firm, partnership, or corporation to possess, sell, or use within the town, or ship into the town, 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 Common/1.4G 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.

(2007 Code, § 7-406) Penalty, see § 7-413

**§ 7-407 CONDITIONS FOR SALE AND USE PERMISSIBLE ITEMS.**

No permissible articles of common fireworks shall be sold, offered for sale, or possessed within the town, 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 as “common fireworks” on all shipping cases and by imprinting on the article or retail container “D.O.T. Class C Common/1.4G 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 state’s Fire Marshal’s 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 1123 and 1126), and the International Fire Code, all in full force and effect within the town.

(2007 Code, § 7-407)

**§ 7-408 RETAIL SALE OF PERMISSIBLE ITEMS; TIME LIMITATIONS; EXCEPTIONS.**

Permissible articles of fireworks may be sold at retail to residents of the town from June 20 through July 5, and December 20 through January 2 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 grains or less of explosive compounds are used, provided they are so constructed that the hand can not come in contact with the cap when in place for exploding, and toy paper pistol caps which contain less than twenty-five one-hundredths grains of explosive compounds, cone, bottle, tube, and other type serpentine pop-off novelties, model rockets, wire sparklers, containing not over 100 grams of composition per item (sparklers containing chlorate or perchlorate sales may not exceed five 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.

(2007 Code, § 7-408) (Ord. 13-14, passed 9- -2013)

**§ 7-409 PUBLIC DISPLAYS; PERMITS; REGULATION.**

(1) 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 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/1.3G fireworks” and shall not include such items of commercial fireworks as cherry bombs, tubular salutes, repeating bombs, aerial bombs, and torpedoes.

(2) 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 Fire Chief, Police Chief, and the Town Manager, or their designees, and applied for and received a permit for such displays issued by the State Fire Marshal. Applicants for permits for such public displays shall be made in writing and shall show that the proposed display is to be so located and supervised that it is not hazardous to property and that it shall not endanger human lives. Possession of special fireworks for re-sale to holders of a permit for public fireworks displays shall be confined to holders of a distributors permit only. Applicants for a permit for public display of fireworks, not using common fireworks, shall submit with the application a non-refundable application fee established in the fee schedule adopted as part of the budget ordinance.

(2007 Code, § 7-409)

**§ 7-410 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 100 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 inches high. No fireworks shall be sold at retail at any location where paints, oils, or varnishes are for sale or use, unless such paints, oils, or varnishes are kept in their original consumer containers, nor where resin, turpentine, gasoline, or any other flammable substance is stored or sold, if the storage creates an undue hazard to any person or property.

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

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

(4) As permits are temporary for a period not to exceed 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 years.

(2007 Code, § 7-410) (Ord. 14-15, passed 4- -2014) Penalty, see § 7-413

#### **§ 7-411 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 16 years or to any intoxicated or irresponsible person. Sales to minors shall be made in accordance with the state law;

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

(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/1.4G 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 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 the town's zoning ordinance regarding set back requirements for buildings selling fireworks or similar buildings.

(2007 Code, § 7-411) Penalty, see § 7-413

#### **§ 7-412 SEIZURE AND DESTRUCTION OF FIREWORKS.**

(1) The Smyrna Town Manager, or 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 Town Manager shall give notice by registered mail or personal service to such owner, of the Fire Chief's intention to destroy such seized materials. Such notice shall inform the owner of the owner's right to a hearing. Upon the request of the owner, the Town Manager shall conduct an appropriate contested case hearing concerning such destruction of fireworks in accordance with the Uniform Administrative Procedures Act, compiled in T.C.A. Title 4, Chapter 5; or

(b) If the identity of the owner of any seized fireworks is not known to the Town Manager, the Town Manager shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure, and of the Fire Chief's intention to destroy such fireworks. The notice shall be published once each week for three consecutive weeks and if no person claims ownership of the fireworks within ten 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.

(2007 Code, § 7-412)

#### **§ 7-413 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 not exceeding state authorized maximum limits. In addition, the town may refuse to issue another permit to the holder of a permit so convicted for a period not to exceed three years.

(2007 Code, § 7-413)

#### **§ 7-414 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.

(2007 Code, § 7-414)

**§ 7-415 PERMISSIBLE DATES AND TIMES OF DISCHARGE.**

The discharge of common fireworks within the corporate limits of the town shall be restricted to the following dates and times:

<i>Date</i>	<i>Times</i>
July 3	9:00 a.m. until 10:00 p.m.
July 4	9:00 a.m. until 11:00 p.m.
July 5	9:00 a.m. until 10:00 p.m.
December 31	9:00 a.m. until 1:00 a.m. on January 1
January 1	9:00 a.m. until 10:00 p.m.
	.

(Ord. 13-14, passed 9- -2013; Ord. 17-40, passed 9-12-2017)

**§ 7-416 DISCHARGE ON OTHER DATES AND TIMES PROHIBITED; SPECIAL PERMITS.**

(1) The discharge of all common fireworks within the corporate limits of the town on times and dates not authorized by this chapter are strictly prohibited.

(2) Requests for special permits to discharge common fireworks within the corporate limits of the town during times and dates not authorized by this chapter may be submitted for consideration to the Fire Chief, the Chief of Police, and the Town Manager. All requests must be submitted no less than 15 days prior to the scheduled event. The special authorization required shall be reviewed based upon, but not limited to, the following criteria:

(a) The risk to public health and safety;

(b) Any financial obligations incurred by the town to provide adequate protection from possible hazards;

- (c) The location of the event;
- (d) Any possible disturbance of the peace violations in the town; and
- (e) Whether the display will serve the common good of the citizens of the town.

(3) Any and all requests which fail to serve the general good of the community may be denied at the discretion of the Town Manager based upon recommendations from the Fire Chief or the Chief of Police.

(4) Requests for special permits to discharge common fireworks as provided in this section shall be accompanied by a non-refundable application fee established in the fee schedule adopted as part of the budget ordinance.

(2007 Code, § 7-416) (Ord. 02-35, passed 9- -2002)

#### **§ 7-417 DISCHARGE ON TOWN PROPERTY PROHIBITED.**

No fireworks shall be discharged or carried onto property of the town, including, without limitation, any or all of the town's public parks; provided, however, that the provisions of this section shall not apply to events sponsored by the town.

(2007 Code, § 7-417) (Ord. 02-35, passed 9- -2002) Penalty, see § 7-413

#### **§ 7-418 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS REQUIRED.**

Any and all discharges of fireworks within the corporate limits of the town must comply with T.C.A. § 68-104-211, and NFPA 1123, and the most recently adopted version of the International Fire Code by the town.

(2007 Code, § 7-418) (Ord. 02-35, passed 9- -2002)

#### **§ 7-419 REMOVAL OF DEBRIS REQUIRED.**

Any parties or individuals who discharge fireworks within the corporate limits of the town either for public display or personal use must clear any debris from public roadways or rights-of-way after the discharge of the fireworks. If any such debris is not removed, such parties or individuals may be cited under § 16-107 of this code and/or T.C.A. § 39-14-502.

(2007 Code, § 7-419) (Ord. 02-35, passed 9- -2002) Penalty, see § 7-413



**§ 7-420 VIOLATIONS RELATED TO DISCHARGE.**

It shall be unlawful and a misdemeanor for any person to ignite, discharge, use or explode any common fireworks within the corporate limits of the town except in accordance with the provisions of this chapter. Each day a violation is allowed to continue shall constitute a separate offense.  
(2007 Code, § 7-420) (Ord. 02-35, passed 9- -2002) Penalty, see § 7-413