

**TITLE 7**

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

**CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIREWORKS.

**CHAPTER 1**

**FIRE DISTRICT**

**SECTION**

7-101. Fire limits described.

**7-101. Fire limits described.** The fire limits of Elizabethton shall be as follows: Beginning at the covered bridge over Doe River, at the junction of Third Street and Hattie Avenue; thence with Hattie Avenue, to the end of the Hart Lane at the railroad; thence with Doe Avenue, to West "F" Street; thence east with West "F" Street to Elk Avenue; thence north with Elm Street, to "E" Street; thence with "E" Street to Doe River; thence crossing Doe River and with Second Street to within one hundred and fifty (150) feet from the west line of Main Street to the Watauga River; thence up the Watauga River along the south bank above the east line of said street; thence in a southerly direction one hundred and fifty (150) feet from the east line of said street (Main), in a straight line to Third Street; thence westward, following Third Street to the Covered Bridge to the beginning. (1982 Code, § 7-101)

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

## CHAPTER 2

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

#### SECTION

- 7-201. Fire code adopted.
- 7-202. Establishment and duties of bureau of fire prevention.
- 7-203. Definition of "municipality."
- 7-204. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.
- 7-205. Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited.
- 7-206. Establishment of limits in which bulk storage of liquefied petroleum gases is to be restricted.
- 7-207. Modifications.
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- 7-212. Smoke detector devices required.
- 7-213. Fire detection systems and new construction.
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- 7-215. Certification.
- 7-216. Responsibility for installation and maintenance.
- 7-217. Prohibited sale; notice.
- 7-218. Interference with device.
- 7-219. Enforcement.

**7-201. Fire code adopted.** There is hereby adopted by the city council for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Standard Fire Prevention Code recommended by the Southern Standard Building Code Congress International, Inc,<sup>2</sup> and any amendments thereto, being particularly in the 1997 edition and any revisions thereof, and the whole thereof, and any amendments thereto, save and except such portions as are hereinafter deleted, modified, or amended, by § 7-207 of this code. Not less than one (1) copy of such

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<sup>1</sup>Municipal code reference

Building, utility and housing codes: title 12.

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

code has been and now is filed in the office of the city clerk and the same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect, the provisions thereof shall be controlling within the limits of the City of Elizabethton, Tennessee. (1982 Code, § 7-201, modified, as amended by Ord. #36-15, Nov. 2000)

**7-202. Establishment and duties of bureau of fire prevention.**

(1) The fire prevention code shall be enforced by the bureau of fire prevention in the fire department of Elizabethton, Tennessee, which is hereby established and which shall be operated under the supervision of the chief of the fire department.

(2) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the city manager the employment of all personnel and technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position, in accordance with the city's personnel rules and regulations.

(3) A report of the bureau of fire prevention shall be made annually and transmitted to the city manager. It shall contain all proceedings under this code, with such statistics as the chief of the fire department may wish to include therein. The chief of the fire department shall also recommend any amendments to the code which, in his judgment, shall be desirable. (1982 Code, § 7-202, as amended by Ord. #36-15, Nov. 2000)

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

**7-204. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.** The limits referred to in § 1901.4.2 of the fire prevention code, in which storage of explosives and blasting agents is prohibited, are hereby established as follows: The principal business district, closely-built commercial areas, and heavily populated areas. (1982 Code, § 7-204)

**7-205. Establishment of limits of districts in which storage of flammable liquids in outside aboveground tanks is to be prohibited.** (1) The limits referred to in § 902.1.1 of the fire prevention code in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established as follows:

These limits include the mercantile and other congested districts.

(2) The limits referred to in § 906.1 of the fire prevention code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established as follows:

These limits include such areas as those zoned solely for residential occupancies, and for mercantile establishments primarily retail in character. (1982 Code, § 7-205)

**7-206. Establishment of limits in which bulk storage of liquefied petroleum gases is to be restricted.** The limits referred to in § 1701.4.2 of the fire prevention code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established as follows:

These limits include the heavily populated and the congested commercial areas. (1982 Code, § 7-206)

**7-207. Modifications.** The chief of the bureau of fire prevention shall have power to modify any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, 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 modification when granted or allowed and the decision of the chief of the bureau of fire prevention thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant. (1982 Code, § 7-207)

**7-208. Appeals.** Whenever the chief of the fire department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal in writing from the decision of the chief of the fire department to the city council of the City of Elizabethton, Tennessee, within 30 days from the date of the decision. (1982 Code, § 7-208)

**7-209. New materials, processes, or occupancies which may require permits.** The members of the city council of the City of Elizabethton, city manager, the chief of the fire department, and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes, or occupancies which shall require permits in addition to those now enumerated

in said code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office and distribute copies thereof to interested persons. (1982 Code, § 7-209)

**7-210. Fire lanes.** Pursuant to § 28.16 of the fire prevention code, the chief of police and fire chief are hereby empowered, authorized, and directed to establish fire lanes as necessary and needed, upon all public property in the city, and at the request or with the permission of the owner of private property upon said private property, including shopping centers, super-markets, and similar locations, and mark properly and designate such fire lanes by signs, a record of which will be made and filed with the city clerk.

It shall be unlawful for any person at any time to park a motor vehicle in or otherwise obstruct any such fire lane so established, marked, and designated without regard as to whether such motor vehicle or other obstruction is attended or unattended. Provided, however, that the genuine, good faith, bona fide stopping of a motor vehicle in said fire lane for the purpose of discharging of passengers or the picking up or delivery of goods for a period of time not exceeding one (1) minute shall not be considered a violation of this section.

The chief of police and the fire chief or their duly authorized agents are additionally empowered to cause to be towed away or removed at the owner's expense any such motor vehicle or obstruction found in such fire lane in obvious violation of this section. (1982 Code, § 7-210)

**7-211. Penalties.** (1) Any person who shall violate any of the provisions of the code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall 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 who shall fail to comply with such an order as affirmed or modified by the aforesaid authority, within the time fixed herein, shall severally for each such violation and non-compliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day shall constitute a separate offense that prohibited conditions are maintained.

(2) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (1982 Code, § 7-211)

**7-212. Smoke detector devices required.** After September 1, 1989, all single-family and multiple-family dwelling units as hereinafter described in this article shall be required to be equipped with a smoke detector. (1982 Code, § 7-212)

**7-213. Fire detection systems and new construction.** (1) No single family residence, multifamily residence in which two (2) or more families are housed in different sections, apartment, condominium, townhouse, guestroom in a motel, hotel, dormitory, boarding house or in any basement or cellar within such, built or constructed after the effective date of this section, may be occupied prior to the installation of smoke detectors approved by a major testing laboratory, such as Underwriters' Laboratories, and capable of sensing visible or invisible particles and combustion, and providing suitable audible alarm thereof. Detectors sensitive only to heat are not acceptable.

(2) Smoke detectors may be wired directly (hardwired) to the dwelling's power supply or powered by a self-monitored battery, or operated by a plugin outlet which is fitted with a restrainer device, provided the outlet is not controlled by a switch other than the main power supply. All smoke detectors that are wired to a dwelling's power supply (hard-wired) shall be installed in accordance with the electrical code of the city.

(3) In all single family residences, multifamily residences, apartments, condominiums, townhouses, at least one smoke detector shall be installed to protect each sleeping area, and there shall be at least one smoke detector installed on each level of such dwellings (i.e., cellar, basement, first floor, second floor, etc.). For purposes of this section, a sleeping area is defined as the area or areas of the dwelling unit which the bedrooms or sleeping rooms are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other use areas (such as kitchens, family or living rooms, but no bathrooms or closets) they shall be considered separate sleeping areas for purposes of this section, and shall require protection.

(4) In hotels, motels, dormitories or boarding houses, at least one smoke detector shall be installed in each tenant space, and there shall be at least one smoke detector installed on each level of such building (i.e., cellar, basement, first floor, second floor, etc.). For the purposes of this section, a tenant space is defined as any room used or intended to be used for sleeping purposes, provided that where two (2) or more rooms are used or intended for use for sleeping purposes in an area such as a suite, when such rooms are permanently or continually designated and used as such, then a smoke detector shall be installed in each "sleeping area" as defined above.

(5) All smoke detectors required by this section shall be installed in accordance with the manufacturer's directions as to location and installation where they do not conflict with the provisions of this section.

(6) The provisions of the Standard Fire Prevention Code and Standard Building Code, published by the Standard Building Code Congress, International, Inc., as adopted by the city shall remain in effect and shall govern fire and smoke warning and protection systems in common corridors of any buildings covered by this section and nothing in this section is intended nor shall be construed to amend, alter, repeal, omit, delete the same as it relates to such common corridors.

(7) The requirements of this section shall apply, the other provisions of the Standard Fire Prevention Code and Standard Building Code as adopted by the city, notwithstanding. (1982 Code, § 7-213)

**7-214. Fire detection systems for existing dwellings.** (1) No single family residence, multifamily residence (meaning residences in which two (2) or more families are housed in different sections), apartment, condominium, townhouse, guestroom in a motel, hotel, dormitory, boarding house nor any basement or cellar within such multifamily residence shall be sold, leased, rented or otherwise occupied after September 1, 1989, unless a smoke detector approved by a major testing laboratory, and capable of sensing visible or invisible particles and combustion, and providing suitable audible alarm thereof has been installed in said premises as prescribed by this article. Detectors sensitive only to heat are not acceptable. Furthermore, no structural change of a value in excess of one thousand dollars (\$1,000.00) may be approved for a building permit after September 1, 1989 unless such dwelling is equipped with, or unless such structural changes includes, smoke detectors as specified in this section.

(2) In existing dwellings, smoke detectors may be wired directly (hardwired) to the dwelling's power supply or powered by a self-monitored battery, or operated by a plugin outlet which is fitted with a restrainer device, provided the outlet is not controlled by a switch other than the main power supply. All smoke detectors that are wired to a dwelling's power supply (hard-wired) shall be installed in accordance with the electrical code of the city.

(3) In all single family residences, multifamily residences, apartments, condominiums, townhouses, at least one smoke detector shall be installed to protect each sleeping area, and there shall be at least one smoke detector installed on each level of such dwellings (i.e., cellar, basement, first floor, second floor, etc.). For purposes of this section, a sleeping area is defined as the area or areas of the dwelling unit which the bedrooms or sleeping rooms are located. Where bedrooms or rooms ordinarily used for sleeping are separated by other use areas (such as kitchens, family or living rooms, but no bathrooms or closets) they shall be considered separate sleeping area for purposes of this section, and shall require protection.

(4) In hotels, motels, dormitories or boarding houses, at least one smoke detector shall be installed in each tenant space, and there shall be at least one smoke detector installed on each level of such building (i.e., cellar, basement, first floor, second floor, etc.). For the purposes of this section, a tenant space is defined as any room used or intended to be used for sleeping purposes, provided that where two (2) or more rooms are used or intended for use for sleeping purposes in an area such as a suite, when such rooms are permanently or continually designated and used as such, then a smoke detector shall be installed in each "sleeping area" as defined above.

(5) All smoke detectors required by this section shall be installed in accordance with the manufacturer's directions as to location and installation where they do not conflict with the provisions of this section.

(6) The provisions of the Standard Fire Prevention Code and Standard Building Code, published by the Standard Building Code Congress, International, Inc., as adopted by the city shall remain in effect and shall govern fire and smoke warning and protection systems in common corridors of any buildings covered by this section and nothing in this section is intended nor shall be construed to amend, alter, repeal, omit, delete the same as it relates to such common corridors.

(7) The requirements of this section shall apply, the other provisions of the Standard Fire Prevention Code and Standard Building Code as adopted by the city, notwithstanding. (1982 Code, § 7-214)

**7-215. Certification.** Each device installed shall be certified by a recognized electrical inspection agency, such as Underwriters' Laboratories, as a properly operating fire detection device for the protection of life and safety. (1982 Code, § 7-215)

**7-216. Responsibility for installation and maintenance.** (1) The owner of each single-family dwelling, multifamily dwelling, apartment, condominium or town house shall be responsible for the installation of the early fire detection devices required by this article. It shall be the responsibility of the occupants, whether owners, residents or tenants, to maintain the smoke detectors. Such maintenance shall include cleaning, replacing batteries or keeping the device connected to the electrical power source.

(2) The owner and/or manager of each hotel, motel, dormitory or boarding house shall be responsible for the installation and maintenance of early fire detection devices in said premises. Such maintenance shall include cleaning, replacing batteries or keeping the device connected to the electrical power source. (1982 Code, § 7-216)

**7-217. Prohibited sale; notice.** It shall be unlawful for any person to sell or give away within the city a smoke detector unless said detector meets the standards set out within this section without first delivering to the purchaser or donee of such device a conspicuous written notice that such device does not comply with the provisions of this article. Such notice shall be individually given and shall not be a general posted notice. Nothing in this article shall be construed as prohibiting the selling or giving away of smoke detectors not in compliance with this section, or of heat detectors, provided notice as indicated above is given to the recipient. (1982 Code, § 7-217)

**7-218. Interference with device.** It shall be unlawful for any person to remove, or to intentionally interfere with the proper operation of any smoke detector installed pursuant to this chapter. (1982 Code, § 7-218)

**7-219. Enforcement.** Any person found to be in violation of any of the provisions of this article shall be deemed guilty of an offense, and upon conviction shall be subject to a fine of not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). Each occurrence shall constitute a separate offense. (1982 Code, § 7-219)

## CHAPTER 3

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

#### SECTION

- 7-301. Composition and apparatus, etc.
- 7-302. Administration.
- 7-303. Records and reports.
- 7-304. Police powers.
- 7-305. Policy in regard to fire calls outside the city.

**7-301. Composition and apparatus, etc.** The fire department shall be composed of such subordinate officers and personnel and have such apparatus and equipment as the city council may from time to time direct and/or authorize upon the recommendation of the city manager. Timely recommendations shall be made to the council to insure that the department is at all times equipped with such apparatus, equipment, and personnel as may be required to maintain its efficiency in properly protecting life and property from fire. (1982 Code, § 7-301)

**7-302. Administration.** The chief shall formulate a set of rules and regulations to govern the fire department and shall be responsible to the city manager for the personnel, morale, and general efficiency of the department. All subordinate officers and personnel of the department shall be accountable to the chief and to him only. (1982 Code, § 7-302)

**7-303. Records and reports.** The chief shall see that complete records are kept of all fires, inspections, apparatus and equipment, personnel, and other information about the work of the department.

He shall report monthly to the city manager the condition of the apparatus and equipment; the number of fires during the month, their location and cause, the date of same, and the loss occasioned thereby; the number and purpose of all other runs made; and the apparatus and number of personnel making each fire or other run.

The chief shall make a complete annual report to the city manager within one month after the close of the fiscal year. Such report shall include a summary of the monthly reports together with comparative data for previous years and recommendations for improving the effectiveness of the department. (1982 Code, § 7-303)

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<sup>1</sup>Municipal code reference

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

**7-304. Police powers.** All members of the fire department are hereby appointed as special policemen and are vested with such police powers as are reasonably necessary to enable them properly and efficiently to protect life and property from fire within the city. (1982 Code, § 7-304)

**7-305. Policy in regard to fire calls outside the city.** Fire calls outside the city will be answered only as authorized by a mutual aid agreement. (1982 Code, § 7-305)

## CHAPTER 4

### FIREWORKS

#### SECTION

- 7-401. Purpose.
- 7-402. Definitions.
- 7-403. Permits and fees.
- 7-404. Permit applications.
- 7-405. General restrictions.
- 7-406. Standards for seasonal retailers of fireworks.
- 7-407. Standards for public display permits.
- 7-408. Standards for novelty fireworks.
- 7-409. Separation distance standards adopted.
- 7-410. Seizure and destruction of fireworks.
- 7-411. Restrictions governing the use of fireworks.
- 7-412. Penalties.

**7-401. Purpose.** Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or 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. This chapter shall not be construed to affect or relieve any requirements made by the State of Tennessee. (as added by Ord. #39-14, July 2003)

**7-402. Definitions.** As used in this chapter, unless the context otherwise requires:

(1) "Discharge site." The immediate area surrounding the fireworks mortars used for an outdoor fireworks display.

(2) "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 seasonal retailer or any person who receives, brings or imports any fireworks of any kind, in any manner into this municipality, except a holder of the appropriate manufacturer's, distributor's or wholesaler's permit(s). Any sale of fireworks to a retailer shall only be accomplished by a manufacturer or distributor possessing the required applicable permit(s) issued by the State of Tennessee and this municipality.

(3) "Fallout area." The area over which aerial shells are fired. The shells burst over the area, and unsafe debris and malfunctioning aerial shells fall into this area. The fallout area is the location where a typical aerial shell

dud falls to the ground depending on the wind and the angle of mortar placement.

(4) "Fireworks" shall mean any composition or device for the purpose of producing a visible or an audible effect for entertainment purposes by combustion, deflagration, or detonation that meets the definition of 1.4 G Fireworks (formerly known as Class C Common Fireworks) or 1.3G Fireworks (formerly known as Class B Special Fireworks) as set forth herein.

(a) "Fireworks, 1.4G." (Formerly known as Class C, Common Fireworks.) Small fireworks devices containing restricted amounts of pyrotechnic composition designed primarily to produce visible or audible effects by combustion. Such 1.4G fireworks which comply with the construction, chemical composition, and labeling regulations of the DOTn for fireworks, UN 0336, and the U.S. Consumer Product Safety Commission as set forth in CPSC 16 CFR: Parts 1500 and 1507.

(b) "Fireworks, 1.3G." (Formerly known as Class B, Special Fireworks.) Large fireworks devices, which are explosive materials, intended for use in fireworks displays and designed to produce audible or visible effects by combustion, deflagration, or detonation. Such 1.3G fireworks include, but are not limited to, firecrackers containing more than 130 milligrams (2 grains) of explosive composition, aerial shells containing more than 40 grams of pyrotechnic composition, and other display pieces which exceed the limits for classification as 1.4G fireworks. Such 1.3G fireworks are also described as Fireworks, UN0335 by the DOTn.

(c) "Novelty fireworks" shall mean small devices containing limited amounts of pyrotechnic explosive or composition that produce a visible or audible effect. The following devices are classed as Fireworks 1.4G and described as Fireworks UN0336 unless they are classed as 1.4S or not regulated as hazardous materials based on specific test results. These devices that are not regulated are not considered to be consumer fireworks and include but are not limited to the following. Party popper, snapper, snake-glow worm, sparkler, toy caps, other devices containing 0.8 grains or less of explosive composition such as cigarette loads, trick matches and other trick noise makers. Further definition may be found in NFPA 1124, appendix C.

(5) "Fireworks display." A presentation of fireworks for a public or private gathering.

(6) "Flame effect." The combustion of flammable solids, liquids or gases to produce thermal, physical, visual or audible phenomena before an audience.

(7) "Inhabited building." Any building or structure regularly used in whole or part as a place of human habitation or visitation. The term includes any church, school, store, and any other building or structure where people are accustomed to congregate or assemble.

(8) "Magazine" shall mean a building, structure or container, other than an explosives manufacturing building approved for storage of explosive materials, as follows:

(a) "Indoor." A portable structure, such as a box, bin or other container, constructed as required for Type 2, 4 or 5 magazines in accordance with NFPA 495, NFPA 1124, or DOTy 27 CFR Part 55 so as to be fire resistant and theft resistant.

(b) "Type 1." A permanent structure, such as a building or igloo, that is bullet resistant, fire resistant, theft resistant, weather resistant, and ventilated in accordance with the requirements of NFPA 495, NFPA 1124, or DOTy 27 CFR Part 55.

(c) "Type 2." A portable or mobile structure, such as a box, skid-magazine, trailer, or semi trailer, constructed in accordance with the requirements of NFPA 495, NFPA 1124, or DOTy 27 CFR, Part 55 that is fire resistant, theft resistant, weather resistant, and ventilated. If used outdoors, a Type 2 magazine is also bullet resistant.

(d) "Type 3." A fire-resistant, theft-resistant, and weather-resistant "day box" or portable structure constructed in accordance with NFPA 495, NFPA 1124, or DOTy 27 CFR, Part 55 used for the temporary storage of explosive materials.

(e) "Type 4." A permanent, portable, or mobile structure such as a building, igloo, box, semi trailer, or other mobile container that is fire resistant, theft resistant and weather resistant and constructed in accordance with NFPA 495, NFPA 1124, or DOTy 27 CFR, Part 55.

(f) "Type 5." A permanent, portable or mobile structure such as a building, igloo, box, bin, tank, semi trailer, bulk trailer, tank trailer, bulk truck, tank truck, or other mobile container that is theft resistant, which is constructed in accordance with NFPA 495, NFPA 1124, or DOTy 27 CFR, Part 55.

(9) "Manufacturer." Any person engaged in the making, manufacture or construction of fireworks of any kind within this municipality.

(10) "Operator" shall mean the person with overall responsibility for the safety, set-up, and discharge of an outdoor fireworks display, any display before a proximate audience and the use of flame effects before an audience.

(11) "Permit" shall mean the written authority issued by the City of Elizabethton and the state fire marshal as set forth in Tennessee Code Annotated, § 68-104-102.

(12) "Person" shall mean any individual, firm, partnership, or corporation.

(13) "Proximate audience." An audience closer to pyrotechnic devices than permitted by NFPA 1123 Code for Fireworks Display

(14) "Retailer" shall mean any person engaged in making retail sales of fireworks at anytime during the year.

(15) "Sale" shall mean an exchange of articles of fireworks for money or other consideration such as barter, exchange, gift, or offer thereof.

(16) "Seasonal retailer." Any person engaged in the business of making retail sales of fireworks within this municipality from June 20 through July 5 and December 10 through January 2 of each year.

(17) "Wholesaler" shall mean any person engaged in the business of making sales of fireworks to seasonal retailers. A wholesaler shall not be permitted to make a sale to a retailer. (as added by Ord. #39-14, July 2003)

**7-403. Permits and fees.** (1) It shall be unlawful for any person to manufacture, sell, offer of sale, ship, or cause to be shipped into the City of Elizabethton any item of fireworks without first having secured applicable permits for public displays or seasonal retail sales from the state fire marshal, as required by Tennessee Code Annotated, § 68-104-102 and from the City Clerk of the City of Elizabethton.

(2) This provision applies to residents as well as nonresidents of this municipality. No permit shall be required of a consumer to purchase from a seasonal retailer holding the required permit(s) for purchases within this municipality.

(3) The decision of the city fire official as to what type of permit or permits shall be required of each person under this chapter shall be final. No permit shall be issued to any person under (21) twenty-one years of age. All permits shall be for the calendar year or any fraction thereof and shall expire on December 31. A grace period of (2) two days may be allowed each holder of a permit. No permit provided for herein shall be transferable to another person or location unless such transfer shall be approved by the fire official. Permits shall be posted conspicuously at the place for which it was issued.

(4) The city clerk is authorized and directed to charge for permits issued as follows:

Seasonal retailer . . . . .	\$300.00
Public display . . . . .	\$100.00

(5) All fees collected for permits shall constitute expendable receipts of the fire prevention division. The fire official is charged with the enforcement of this chapter and may call upon the state fire marshal, municipal peace officer or code enforcement official for assistance in the enforcement of such chapter.

(6) The city clerk shall assign a number to each permit issued and each holder of a permit of any of the following classes shall imprint or affix the same to all orders and invoices issued or used by each manufacturer, distributor or wholesaler.

(7) No person shall deliver, sell or ship fireworks into or within this municipality unless the consignee produces the required permit or evidence that the consignee holds such a permit. No seasonal retailer shall purchase fireworks from another person without first requiring proof that the proper

permit required of the seller herein has been obtained and is current and valid. (as added by Ord. #39-14, July 2003)

**7-404. Permit applications.** (1) The exact mailing address and exact address where fireworks are to be sold must be stated on each application and permit. The fire official or designated representative shall inspect the location for each permit before a permit is issued to determine if the location meets the requirements of this chapter and reasonable safety standards for the storage and sale of fireworks. The issuance of the permits herein required does not replace or relieve any person of state or county privilege licenses as provided by law. The fire official shall require each applicant for a fireworks permit to exhibit a permit or furnish other definite and satisfactory evidence that a proper permit has been issued to the applicant by the state fire marshal and that the permit is current and valid.

(2) Public displays, displays before a proximate audience and flame effects before an audience shall be performed only under competent supervision, and after the persons or organizations making such displays shall have applied for and received a permit for such displays issued by the fire official. Applications for permits for such displays shall be made in writing at least (10) ten days in advance of the proposed display, and the application shall detail location and supervision to the satisfaction of the fire official. Any demonstration requested by the fire official of pyrotechnics to be used for these displays prior to the event for which a permit is requested shall be considered required at a time and place established by the fire official. Permits issued shall be limited to the time specified therein and type(s) of pyrotechnics listed in the application and shall not be transferable.

(3) The fire official may revoke any permit issued under the provisions of this chapter upon evidence that the holder has violated any provisions of such chapter, and confiscate any pyrotechnic articles affected by such revocation. Before any permit shall be revoked, the fire official shall give notice to the permit holder of the intention to do so, by registered mail or by personal service. Such notice shall inform the permit holder of appropriate right to a formal hearing in compliance with requirements of the municipal code. The fire official may refuse to issue another permit to the holder of a permit, which has been revoked for cause for a period not to exceed three (3) years.

**EXCEPTION:** If, in the opinion of the fire official or his designated representative there exists a condition which is considered immediately dangerous to life and safety, a revocation order may be issued and enforced immediately with notification to be completed as soon as reasonably possible thereafter. (as added by Ord. #39-14, July 2003)

**7-405. General restrictions.** The following activities are expressly prohibited by this chapter:

- (1) Manufacturing facilities of any type of pyrotechnic material within this municipality are expressly prohibited.
- (2) Distribution facilities of any type of pyrotechnic material within this municipality is expressly prohibited.
- (3) Year-round retail sales of fireworks within this municipality is expressly prohibited.
- (4) Wholesale facilities of any type of pyrotechnic material within this municipality is expressly prohibited. (as added by Ord. #39-14, July 2003)

**7-406. Standards for seasonal retailers of fireworks.** All fireworks seasonal retailers shall comply with the following:

- (1) Building codes and fire prevention codes adopted by the City of Elizabethton.
- (2) All state laws regarding the sale of fireworks, including Tennessee Code Annotated, § 68-104-101 et seq.
- (3) No sales shall be made to any individual who is intoxicated or under the influence of any illegal mind altering substance.
- (4) Must have a minimum of two (2) 20 BC rated fire extinguishers in each sales area.
- (5) Must furnish a current certificate of insurance with a minimum of \$2,000,000 in product liability and \$1,000,000 in general liability with the City of Elizabethton being named as an additional insured on the general liability insurance policy.
- (6) The holder of a seasonal retailers permit shall comply with any guidelines as set forth by the fire official and specifically shall comply at the time of application with the currently adopted code set of this municipality.
- (7) The holder of a seasonal retailers permit shall be authorized to engage in the retail sale of fireworks of the classification DOTn 1.4G (formerly known as Class C, Common Fireworks) only during the times specified for seasonal retailer in the definitions section above.
- (8) Locations for seasonal retail sales shall be limited to businesses which have a minimum of 50% of total receipts from the sale of fireworks.
- (9) Locations for seasonal retail sales shall be limited to proper permanent structures or tents, which have the appropriate manufacturer certificate for flame resistance. Bus or semi-trailer type conversions, which allow entry of the public for the purpose of retail purchase are prohibited.
- (10) Location for seasonal retail sales of fireworks, which do not allow entry of the public and buyers, and are served by a sales clerk, may be portable trailer type conversions.
- (11) Locations for seasonal retail sales of fireworks must be in strict compliance with the electrical code. (4g) Locations for seasonal retail sales of fireworks shall comply with table 1 of this chapter and NFPA 101 Life Safety Code.

(12) Storage of fireworks 1.4G above 1,000 lbs. Gross product weight on premises engaged in the seasonal retail sale of this product shall be in outdoor type 4 Magazine minimum and shall be located so as to comply with Table 1 § 7-409 of this chapter.

(13) A sales clerk no less than the age of (18) eighteen must be on duty to serve customers at the time of purchase or delivery.

(14) It shall be unlawful to offer for sale or to sell any fireworks to individuals under the age of sixteen (16) years.

(15) It shall be unlawful to offer for sale or to sell any fireworks to individuals who present themselves to be intoxicated or otherwise irresponsible.

(16) Placing, storing, locating or displaying fireworks in any window, where sun may shine through glass onto the fireworks so displayed shall be prohibited.

(17) At all places where fireworks are stored or sold the presence of lighted cigars, cigarettes or pipes shall be prohibited and there must be posted adequate signs with a minimum (6") six inch letters with a contrasting background color with the words (FIREWORKS - NO SMOKING OR OPEN FLAMES WITHIN 50 FT.) (as added by Ord. #39-24, July 2003, and amended by Ord. #43-15, Oct. 2007)

**7-407. Standards for public display permits.** Applications for and holders of a public display permit to include displays before a proximate audience and flame effects before an audience shall meet the following requirements:

(1) Applications for a public display permit shall bear the approval signature of the chief of the fire department and the chief of the police department.

(2) Public displays shall be authorized for fireworks labeled DOTn 1.3G (formerly known as Special Fireworks) only after the appropriate permit has been issued.

(3) Public displays shall comply with the guidelines as set forth by the fire official and specifically shall comply at the time of application with the current edition of NFPA 1123 Code for Fireworks Display and NFPA 101 Life Safety Code.

(4) Pyrotechnic special effect devices shall be authorized to be used on stages before proximate audiences for ceremonial or religious purposes, as part of a demonstration in exhibits, or as part of a performance which complies with the guidelines as set forth by the fire official and use of the pyrotechnic device complies with the current edition at the time of application of NFPA 1126 Standard for the use of pyrotechnics before a proximate audience and NFPA 101 Life Safety Code.

(5) Flame effects before an audience shall be permitted in accordance with the guidelines as set forth by the fire official and specifically NFPA 160, Standard for Flame Effects Before an Audience and NFPA 101 Life Safety Code.

(6) Any and all permits required by the state of Tennessee for public displays listed in this section shall be presented to the fire official before applications are accepted by this municipality. (as added by Ord. #39-14, July 2003)

**7-408. Standards for novelty fireworks.** Novelty fireworks as defined in this chapter may only be sold by the holder of a valid business license issued by the City of Elizabethton. (as added by Ord. #39-14, July 2003)

**7-409. Separation distance standards adopted.** (1) The following shall be the minimum distances required under this chapter:

TABLE 1  
TABLE OF SEPARATION DISTANCE FOR LOW EXPLOSIVES

QUANTITY OF LOW EXPLOSIVES		DISTANCES IN FEET		
Pounds over	Pounds not over	Inhabited buildings	Passenger railways and public highways	Separation of magazines
0	1,000	50	75	50
1,000	5,000	115	115	75
5,000	10,000	150	150	100
10,000	20,000	190	190	125
20,000	30,000	215	215	145
30,000	40,000	235	235	155
40,000	50,000	250	250	165
50,000	60,000	260	260	175
60,000	70,000	270	270	185
70,000	80,000	280	280	190
80,000	90,000	295	295	195
90,000	100,000	300	300	200
100,000	200,000	375	375	250
200,000	300,000	450	450	300

For SI: 1 foot = 304.8 mm,  
1 pound = 0.454 kg.

(2) Pursuant to § 7-207 of the Elizabethton Municipal Code, the chief fire official may exercise discretion when applying the requirements of this section when circumstances warrant such deviation and the spirit of the code is

observed, public safety secured and substantial justice done. Any person seeking deviation must present an application in writing setting forth the reasons. (as added by Ord. #39-14, July 2003)

**7-410. Seizure and destruction of fireworks.** (1) The fire official shall seize as contraband any fireworks which are sold, displaced, used or possessed in violation of this chapter and is authorized to destroy fireworks so seized.

(2) Before any seized fireworks may be destroyed:

(a) If the owner of seized fireworks is known, the fire official shall give notice by registered mail to such owner of the intent to destroy such seized materials. Notice shall inform the owner of the owner's right to appeal.

(b) If the identity of the owner is not known, the fire official shall cause to be published, in a newspaper of general circulation in the county wherein the seizure was made, notice of such seizure and the intent to destroy such fireworks. The notice shall be published once each week for a period of three (3) consecutive weeks and if no person claims ownership within ten (10) days of the date of the last publication, the fire official shall proceed to destroy the fireworks. If the owner does claim the fireworks within the time above specified, a proper hearing shall be held. (as added by Ord. #39-14, July 2003)

**7-411. Restrictions governing the use of fireworks.** The following restrictions apply to the use of fireworks within the corporate limits of the City of Elizabethton.

(1) No fireworks shall be ignited or discharged within 600 feet of any church, hospital, or public school, when such facilities are occupied.

(2) No fireworks shall be ignited or discharged between the hours of 11:00 P.M. and 12:00 P.M., except on New Year's Eve when the hours shall be extended to 12:30 A.M. on New Year's Day.

(3) Fireworks which exceed the limits of the United States Department of Transportation 1.4G as to explosive content or composition, such items being commonly referred to as "illegal ground salutes", are expressly prohibited from shipment into, possession, sale or use within the corporate limits of the City of Elizabethton.

(4) No fireworks shall be ignited or discharged within 200 feet of where fireworks are stored, sold, or offered for sale.

(5) No fireworks shall be ignited or discharged in a motor vehicle or thrown from such motor vehicle, nor shall any person place or throw any ignited firework device into or at a motor vehicle, any person, or group of persons.

(6) No fireworks shall be ignited or discharged by anyone under the age of fourteen (14) years of age unless under direct adult supervision.

(7) No fireworks shall be ignited or discharged by anyone under the influence of alcohol or any mind altering drug.

(8) No fireworks shall be discharged or ignited within the corporate limits of the City of Elizabethton except for the period from June 20<sup>th</sup> until July 5<sup>th</sup> and December 10<sup>th</sup> until January 2<sup>nd</sup> of each year. (as added by Ord. #39-14, July 2003, and amended by Ord. #43-15, Oct. 2007)

**7-412. Penalties.** Any violation of this chapter is a violation of city ordinance punishable by a fine of \$50.00 and an assessment of court costs of \$50.00. (as added by Ord. #39-14, July 2003)