

## **CHAPTER 10**

### **FIRE PREVENTION AND PROTECTION**

Art. I. Fire Department Generally, §§10-1--10-29

Art. II. Fire Marshal, §§10-30--10-49

Art. III. Fire Prevention Code, §§10-50--10-51

#### **ARTICLE I. FIRE DEPARTMENT GENERAL**

##### **SECTION 10-1. ESTABLISHMENT OF THE WINCHESTER FIRE AND RESCUE DEPARTMENT.**

The City Council of the City of Winchester hereby establishes pursuant to Virginia Code Section 27-6.1, a fire and rescue department known as the Winchester Fire and Rescue Department. This fire and rescue department shall be the only one officially recognized to operate within the City of Winchester, Virginia. Though recognized as legally independent entities, for the purposes of this Chapter where the “fire and rescue department” is referred to in this chapter, this reference shall include the volunteer fire and rescue departments within the City of Winchester herein known as Friendship Volunteer Fire Company, No.1, Charley Rouss Fire Company, Inc., Shawnee Volunteer Fire and Rescue Company, and South End Fire Company.

##### **SECTION 10-2. APPOINTMENT, TERM AND REMOVAL OF CHIEF.**

The City Manager shall appoint a Fire Chief. Such appointment to be for an indefinite period, subject to removal at any time by the City Manager upon written charges of misconduct, or failure to carry out printed regulations of the Fire and Rescue Department or written orders of the City Manager.

##### **SECTION 10-3. GENERAL POWERS AND DUTIES OF CHIEF.**

- (a) Subject to control of the City Manager, Fire Chief is hereby given full power and authority over the department.
- (b) The Fire Chief shall be responsible for the efficient operation of the fire and rescue department, with the approval of the City Manager. The Fire Chief shall have the authority to appoint such officers as may be necessary to operate the department, and to make and enforce reasonable rules and regulations that do not conflict with state laws or city ordinances.

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**Editor’s Note - - Ordinance No. 2010-02 adopted April 13, 2010, amended and readopted Chapter 10 in its entirety.**

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- (c) At and during a fire or fire drill, the authority of the Fire Chief shall be unrestricted and he shall not be subject to any orders or directions whatsoever at such time. (Ord. of 4-13-76, §8-2)

**State Law References**--Use of equipment in emergencies beyond territorial limits of city, Code of Virginia, §27-1; contracts of cities to furnish fire protection, §27-2; fire departments and fire companies in cities, §§27-6.1-27-22.

### **SECTION 10-4. RESPONSE OF EQUIPMENT.**

All fire apparatus and emergency medical equipment responding within the City of Winchester to a fire or emergency medical incident within the jurisdiction shall be under the control and direction of the Fire Chief or their designee.

#### **EXCEPTIONS.**

- a) Any duly dispatched fire or emergency medical equipment from another city, town or county which merely passes through the City of Winchester or is merely bringing a patient to receive medical services within the City of Winchester.
- b) Any private ambulance service certified to do business within the Commonwealth of Virginia.

### **SECTION 10-5. ESTABLISHMENT OF FIRE AND RESCUE DEPARTMENT STANDARDS GOVERNING PARTICIPATION.**

The Fire Chief shall establish standards, rules and regulations to promote the objectives of the fire and rescue department, within the laws of the Commonwealth and City Ordinances, and shall govern all city employees and other persons participating in fire fighting activities and emergency medical operations.

### **SECTION 10-6. PARTICIPATION OF MINORS IN ACTIVITIES OF VOLUNTEER FIRE COMPANIES; SUBMISSION OF APPLICATION; FIRE CHIEF TO FORMULATE AND ADOPT RELATED REGULATIONS.**

- a) Any minor sixteen years of age or older who desires to participate in the activities of the volunteer fire and rescue companies of the City of Winchester must submit the proper application form, which may be obtained in the office of the Fire Chief.

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- b) Said application shall be prepared by the Fire Chief in a form consistent with the terms and requirements of this article, and the Fire Chief is hereby authorized to formulate and adopt regulations required to achieve compliance with this article.
- c) A completed application shall be submitted to the Fire Chief of the volunteer company with which such minor wishes to work, and must include the notarized signatures of parents or guardian(s) and must include the birth date of the minor attesting to the applicant, verifying the information contained in the application, and consenting to his participation in fire fighting activities.
- d) The volunteer company Fire Chief shall forward each application, together with his/her recommendation to the Fire Chief. Following determination that the minor meets criteria for volunteer firefighting activities, the Fire Chief shall notify the appropriate company chief that the application has been approved. (Ord. No. 022-86, 12-09-86)

### **SECTION 10-6.1. CERTIFICATION.**

Before any minor may work or participate in operational activities in the fire and rescue department of this city he/she must have the Fire Chief's approval of his/her application, complete training and attain certification under National Fire Protection Association 1001 Level One Firefighter Standards. (Ord. No. 022-86, 12-09-86)

### **SECTION 10-6.2. PARTICIPATION PERMITTED PENDING CERTIFICATION; LIMITATIONS.**

Prior to attaining certification as required in subsection 10-6.1, a minor sixteen years of age or older who has applied pursuant to this article may participate in the activities of a volunteer fire and rescue company. Such participation shall, however exclude use of power equipment and entering into burning structures.

#### **EXCEPTIONS**

- a) Structures designated for and used in conjunction with fire fighter training activities.
- b) During a non-emergency overhaul state using power equipment under the direct supervision of a qualified firefighter and at the direction of the Incident Commander.

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### **SECTION 10-6.3. PARTICIPATION OF MINORS UNDER THE AGE OF SIXTEEN PROHIBITED; EXCEPTION.**

With the exception of individuals enrolled in the Boy Scouts of America Explorer Program, participation of minors under the age of sixteen in activities of volunteer fire and rescue companies in the City of Winchester is prohibited.

**State Law Reference--**Subsection 40.1-79.1 providing authority for participation of minors sixteen years of age and older contingent upon adoption of ordinance by governing body.

### **SECTION 10-7. RESPONSE TO NUISANCES; REIMBURSEMENT OF COSTS.**

The Common Council, by the Fire Chief or City Manager, may, in addition to any other remedy provided by law, require any responsible party to abate, raze or remove a public nuisance, and may maintain an action to require same.

If the public nuisance presents an imminent and immediate threat to life or property, in the decision of the Fire Chief, the Council, by the Fire Chief or his or her designee, may abate, raze or remove the nuisance or have it removed. In such case, an action may be maintained to recover the costs incurred by the City in such abatement, razing, or removal. (Ord. No. 015-90, 4-10-90; Ord. No. 003-91, 1-15-91; Ord. No. 007-2004, 2-10-04)

- a) "Nuisance" shall include, but not be limited to, dangerous or unhealthy substances which have escaped, spilled, been released or which have been allowed to accumulate in or on any place and all unsafe, dangerous, or unsanitary public or private buildings, walls, structures which constitute a menace to health and safety of the occupants thereof the public.
- b) "Responsible Party" shall include, but not be limited to, the owner, occupier, or possessor of the premises where the nuisance is located, the owner or agent of the owner of the material which escaped, spilled, or was released, and the owner or agent of the owner who was transporting or otherwise responsible for such material and whose acts or failures to act caused such public nuisance.

**State Law References--**, Code of Virginia, Title 27; authority of city to make regulations for purpose of guarding against danger from accidents by fire, Code of Virginia, § 15.2-1118, authority of city for abatement or removal of nuisances, Code of Virginia, §15.2-1115.

### **SECTIONS 10-8 – 10-29. RESERVED.**

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## **ARTICLE II. FIRE MARSHAL**

### **SECTION 10-30. APPOINTMENT AND AUTHORITY OF THE FIRE MARSHAL AND ASSISTANT FIRE MARSHALS.**

The Fire Chief shall appoint a Fire Marshal for the City of Winchester. In the absence of an appointed Fire Marshal, the Fire Chief shall be the appointed Fire Marshal and shall have the authority to perform the duties of the Fire Marshal. Assistant Fire Marshals may be appointed to assist the Fire Marshal and shall have the authority to perform the duties of the Fire Marshal in their absence. (Ord. of 10-11-77, §8-4)

**State Law Reference**--Authority to appoint Fire Marshal and assistants, Code of Virginia, §§27-30, 27-36.

### **SECTION 10-31. ENFORCEMENT.**

The Fire Marshal, Assistant Fire Marshals and designated fire officials shall have the authority to enforce the Virginia Statewide Fire Prevention Code, the Code of Virginia and any sections of the Winchester Code related to Fire Prevention and Protection as legally permissible under this Title and under the Code of Virginia.

### **SECTION 10-32. AUTHORITY TO ORDER IMMEDIATE COMPLIANCE WITH LAW, ETC., OR PROHIBIT USE OF BUILDING OR EQUIPMENT.**

The Fire Marshal and assistants shall have the authority to exercise in the same manner and subject to the same conditions, the powers conferred upon other authorities by Section 27-81(b) of the Code of Virginia, subject to the limitations prescribed in Section 27-34.3 of the Code of Virginia.

### **SECTION 10-33. RIGHT OF ENTRY TO INVESTIGATE RELEASES OF HAZARDOUS MATERIAL, HAZARDOUS WASTE OR REGULATED SUBSTANCES.**

The Fire Marshal, Assistant Fire Marshals or fire officials shall have the right to enter upon any property from which a release of any hazardous materials, hazardous waste, or regulated substance, as defined by state law, has occurred or is reasonably suspected to have occurred and which has entered into the groundwater or soils of the city in order to investigate the extent and cause of any such release.

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### **SECTION 10-34. SUMMONING A FIRE MARSHAL.**

The fire and rescue department officer in charge of any fire, explosion or environmental crimes incident scene shall contact the Fire Marshal or assistants to investigate the circumstances involved where such circumstances require investigation.

**SECTIONS 10-35 - 10-49. RESERVED.**

## **ARTICLE III. FIRE PREVENTION CODE**

### **SECTION 10-50. ADOPTION OF VIRGINIA STATEWIDE FIRE PREVENTION CODE; AVAILABILITY OF COPIES.**

The Fire and Rescue Department shall enforce the adopted Virginia Statewide Fire Prevention Code including any later amendments made thereto over time promulgated by the Board of Housing and Community Development of the Commonwealth as amended under this Title and in accordance with Code of Virginia, § 27-98. Copies are available for examination during normal business hours, Monday through Friday in the Fire and Rescue Department Administrative office, Timbrook Public Safety Building, 231 E. Piccadilly Street, suite 330. (Ord. of 4-12-78; Ord. No. 022-88, 4-12-88; Ord. No. 007-93, 02-09-93; Ord. No. 029-97 10-14-97; Ord No. 007-2004, 2-10-04)

**State Law References--**Authority to adopt fire prevention code, Code of Virginia, §§ 27-98.

### **SECTION 10-51. AMENDMENTS, ADDITIONS AND DELETIONS TO THE VIRGINIA STATEWIDE FIRE PREVENTION CODE.**

Pursuant to Code of Virginia, § 27-97, the City is empowered to adopt fire prevention regulations that are more restrictive or more extensive in scope than the Statewide Fire Prevention Code provided such regulations do not affect the manner of construction, or materials to be used in the erection, alteration, repair, or use of a building or structure, including the voluntary installation of smoke alarms and regulation and inspections thereof in commercial buildings where such smoke alarms are not required under the provisions of the Code. The City hereby adopts the Statewide Fire Prevention Code with the following amendments:

*Add Section 106.3.2 to read:*

**106.3.2 Inspections by others.** The Chief of the Fire and Rescue Department may designate such other persons as he deems necessary, to make fire safety inspections. Such persons shall use the Virginia Statewide Fire Prevention Code and this Code as the basis for such inspections.

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*Change Table 107.2 to read:*

**Table 107.2  
Operational Permit Requirements**

Description	Permit Required	Permit Fee	Inspection Fee
<b>Explosives:</b> Explosives Use, Each Site or Location	Yes	\$50.00	0
<b>Explosives:</b> Transportation, Each Vehicle	Yes	\$50.00	0
<b>Explosives:</b> Blaster License	Yes	\$50.00	0
<b>Fireworks:</b> Retail Sale of Permissible Fireworks	Yes	\$250.00	0
<b>Fireworks:</b> Outdoor Aerial or Ground Display	Yes	\$250.00	0
<b>Open Burning:</b> Industrial	Yes	\$50.00	0
<b>Open Burning:</b> Agricultural	Yes	\$50.00	0
<b>Open Burning:</b> Occupational	Yes	\$50.00	0
<b>Open Burning:</b> Bonfires	Yes	\$50.00	0
<b>Pyrotechnics:</b> Indoor Pyrotechnic Display and Special Effects	Yes	\$250.00	0

*Add exception 3 to Section 108.1.1 to read:*

3. Operational permit fee(s) may be waived for non-profit organizations or for community wide events, by the Fire Chief or designee.

*Add Section 111.1.2 to read:*

**111.1.2 Unauthorized tampering.** Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

*Add the following definitions to Section 302 to read:*

**CLEAN LUMBER.** Wood or wood products that have cut or shaped and include wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

**YARD WASTE.** Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

*Change 307.1.1 to read:*

**307.1.1 Prohibited open burning.** Open burning shall be prohibited within the City of Winchester when related to the following:

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1. During periods designated by the Virginia State Air Pollution Control Board.
2. Before 4 p.m. each day between February 15 - April 30 if the fire is in, or within 300 feet of, woodland, brushland or fields containing dry grass or other flammable materials (Code of Virginia § 10.1-1142).
3. Burning of yard waste, household trash, garbage, refuse, household waste, commercial waste, construction waste, combustible liquids, debris waste, hazardous waste, impregnated lumber, junk, rubber, plastics stumps, tires, tar based materials, oil or petroleum based products, products of salvage operations, chemicals, animal carcasses and similar materials is prohibited.
4. Open burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous.
5. Open burning of yard waste.

*Add Section 307.1.2 to read:*

**307.1.2 Permitted Open Burning.** The following open burning shall be permitted within the City of Winchester after obtaining a permit from the fire code official.

1. Open burning not prohibited by section 307.1.1.
2. Industrial applications other than those identified as land clearing.
3. Agricultural burning, such as clearing of field or fence rows, for materials generated on site where the property on which the burning is to be carried out contains at least 5 acres. The burning may be no closer than 50 feet from a structure and 1,000 feet from an occupied structure, unless prior permission has been given by the occupant and may not pose a hazard to highways.
4. Bonfires and ceremonial fires consisting of seasoned wood piled neatly, no more than 5 feet in diameter by 5 feet in height and ignited with a small quantity of paper.
5. Warming barrels containing clean lumber at a construction site, as approved by the fire code official. Such burning shall be contained within a barrel or similar container, be covered or screened to prevent flying embers and may be no closer than 15 feet from a structure.

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6. Recognized silvicultural, range, or wildlife management practices, prevention or control of disease or pests, where the property on which the burning is to be carried out contains at least 5 acres.

*Add Section 307.1.3 to read:*

**307.1.3 Allowable burning.** Open burning shall be allowed without prior notification to the fire code official for recreational fires, highway safety flares, smudge pots, and similar occupational needs.

*Change Section 307.2 to read:*

**307.2 Permit Required.** A permit shall be obtained from the fire code official in accordance with Table 107.2 prior to kindling a fire permitted by Section 307.1.2. Permits shall only be issued to the owner or the owner's agent, for the land which the fire is to be kindled.

*Add Section 307.6 to read:*

**307.6 Notification.** Notification to the Winchester Emergency Communications Center is required prior to and at the conclusion of any open burning permitted under this section.

**Exception:** Open burning in accordance with Section 307.1.3

*Add Section 307.7 to read:*

**307.7 Permitted Times.** Open burning shall be conducted only during daylight hours except when otherwise approved by the fire code official.

*Add Section 307.8 to read:*

**307.8 Endangering other property.** No person shall kindle nor authorize to be kindled or maintain any permitted fire in such a manner that will endanger the property of another.

*Change Section 308.3.1 to read:*

**308.3.1 Open-flame cooking devices.** Charcoal burners and other open-flame cooking devices fueled by combustible or flammable gases, liquids, and solids shall not be operated on a balcony or deck of any structure or within 15 feet of combustible construction or residential occupancy.

**EXCEPTIONS:**

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1. Detached one- and two-family dwellings and townhouses.
2. Where buildings, balconies, and decks are protected by an automatic sprinkler system.
3. Cooking devices using electricity as a heating source and listed by a recognized testing authority.

*Change 308.3.1.1 to read:*

**308.3.1.1 Notification of tenants.** The management of multi-family residential occupancies which have balconies, decks, or patios shall notify their tenants in writing of the prohibitions outlined in section 308.3.1 of this code when the tenant or occupant initially occupies the building and periodically thereafter as may be necessary to ensure compliance.

*Change Section 401.3 to read:*

**401.3 Emergency forces notification.** In any building subject to inspection under any provision of the Code, when a fire or evidence of there having been a fire is discovered, even though it has apparently been extinguished, it shall be immediately reported to the Fire and Rescue Department. This shall be the duty of the owner, occupant, manager, or person in control of such building at the time of discovery. This requirement shall not be construed to forbid the owner, occupant, manager, or person in control of said building from using all diligence necessary to extinguish such fire prior to the arrival of the fire department. No person shall, by verbal or written directive, require any delay in the reporting of a fire to the Fire and Rescue Department.

*Add Section 408.3.5 to read:*

**408.3.5 Evacuation diagrams.** A diagram depicting two evacuation routes shall be posted on or immediately adjacent to every required egress door from each educational classroom or educational classroom like setting.

*Change Section 503.1 to read:*

**503.1 Where required.** Fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3 and Appendix D. The Fire Department is authorized to designate fire lanes on public streets and on private property where necessary. This is to prevent parking in front of, adjacent to, fire hydrants and to provide access for firefighting equipment. Markings and signs are to be provided by the owner or agent of the property involved.

*Add Section 901.5.2 to read:*

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**901.5.2 Hydrostatic testing of repaired or altered sprinkler or standpipe systems.** Hydrostatic testing for automatic sprinkler work in tenant spaces or the repair or alteration of existing sprinkler or standpipe systems shall follow the guidelines below. A hydrostatic test, visual inspection, and sprinkler final will be required for work involving:

1. The addition or relocation of one (1) or more heads
2. The addition of five (5) or more new fittings
3. The addition of twenty (20) feet or more of pipe (nipples shall not be counted as pipe length)
4. The repair of damaged sprinkler or standpipe systems as a result of freezing conditions, or
5. Any combination of the above items.

**Exception:** Unless otherwise approved by the fire code official.

*Add Section 901.6.3 to read:*

**901.6.3 Reporting Results of Periodic Tests.** The individual or company performing any test or inspection required under Section 901 shall provide the fire code official with a complete written record of the test or inspection within 30 days after it is conducted. Such written record shall note plainly which standard, as referenced by this code, was used for the test or inspection.

*Change Section 3301.2 to read:*

**3301.2 Permits.** Permits shall be required in accordance with Table 107.2 for all blasting operations, firework aerial displays, pyrotechnic events before an audience, the transportation, manufacture, possession, use, storage, or sale of explosives and fireworks and the operation of a terminal for handling explosive material and the delivery to or receipt from a carrier at a terminal between sunset and sunrise.

*Change Section 3301.2.4 to read:*

**3301.2.4 Financial responsibility.** Before a permit is issued as required by Section 3301.2, the applicant shall file with the city a certificate of insurance which shows that the applicant has general liability insurance in the amount of at least \$5,000,000 combined single limit for bodily injury and property damage provided by an insurance company authorized to sell insurance in Virginia by the Virginia State Corporation Commission. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The City of Winchester must be named by endorsement to the policy as additional insured and provided a copy prior to the event. Certificate holder: City of Winchester, 15 N. Cameron Street, Winchester, VA 22601. This insurance policy shall become available for the

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payment of any damage arising from the acts or omissions of the applicant, his agents, or his employees in connection with the permitted activity. The applicant shall ensure that the insurance policy is in effect at the time of the commencement of the activities authorized by the permit, and remains continuously in effect until such activities are completed.

**EXCEPTION:** An applicant for blasting operations related to cemetery burial of deceased human remains may be permitted to obtain a permit with insurance in the amount of \$2,000,000 rather than \$5,000,000 provided its operations are conducted on its privately owned property and further provided that the blasting operations shall be inspected and approved by the Fire Code Official not less often than once a year. (Ord. No. 2013-22, 9-10-13)

*Change Section 3301.4 to read:*

**Section 3301.4 Qualifications.** Persons in charge of magazines, blasting operations, firework displays, pyrotechnic special effect operations, or motor vehicles transporting explosive materials shall not be under the influence of alcohol or drugs which impair sensory or motor skills, shall be at least 21 years of age and possess knowledge of all safety precautions related to the transportation, storage, handling or use of explosives, explosive materials or fireworks.

*Add the following definitions to Section 3302.1 to read:*

**RETAILER.** Any person(s) selling or offering fireworks for sale as retail.

**WHOLESALE.** A person, firm, or corporation offering fireworks for sale or selling fireworks to a retailer. Such terms shall include a manufacturer of fireworks, a representative of any such manufacturer, a distributor, a jobber and a middleman of any description dealing in fireworks, any of whom shall sell or offer to sell fireworks to a retailer within the City of Winchester.

*Change Section 3307.1 to read:*

**3307.1 General.** Blasting operations shall only be conducted by persons licensed by the City of Winchester and certified by the SFMO as a restricted or unrestricted blaster or shall be supervised on-site by a person licensed by the City of Winchester and certified by the SFMO as a restricted or unrestricted blaster.

**3307.1.1 Blaster License.** A license to engage in blasting operations within the City of Winchester shall, after approval, be issued to a state certified blaster by the Fire and Rescue Department. The issued license shall be with the blaster at all times while blasting within the city limits.

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The license will be valid for the period as indicated on the issued SFMO blaster certification. The fee for a licensed blaster shall be required as set forth in Table 107.2.

**3307.1.2 Blaster license application.** Application for a blaster license as required by Section 3307.1.1 shall be made to the fire code official in such form and detail as prescribed by the fire code official.

*Add Section 3307.3.1 to read:*

**3307.3.1 Blasting surveys.** Pre and post blast surveys will be required when at the discretion of the fire code official, potential blast damage could occur. Agent or owner of blasting job shall complete prior to any blasting event.

*Add Section 3307.3.2 to read:*

**3307.3.2 Blasting seismographs.** Blasting seismographs will be required at the discretion of the fire code official. The blasting contractor shall provide a minimum of one device prior to conducting blasting operations.

*Add Section 3309 to read:*

### **SECTION 3309 PERMISSIBLE FIREWORKS**

**3309.1 General.** The transportation, storage, discharge, possession, retail display and sale of permissible fireworks shall comply with this section and NFPA 1124.

**3309.1.1 Unlawful activities.** Except as hereinafter provided, it shall be unlawful for any person, firm, or corporation to transport, store, possess, sell, offer for sale, expose for sale, or to buy, use, ignite, or explode any fireworks.

**Exception:** Permissible fireworks in accordance with 3309.1.4.

**3309.1.2 Enforcement.** The fire code official or any law enforcement officer may enforce the regulations contained herein pertaining to the unlawful transportation, storage, discharge, possession, retail display and sale of unlawful fireworks.

**3309.1.3 Permissible fireworks.** The provisions of 3309.1.1 shall not apply to consumer 1.4G permissible fireworks which have been approved by the Fire Marshal's Office. Such permissible fireworks shall be used only on private property with the approval of the owner. The sale or storage of

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any fireworks shall be prohibited on the property of another without the express written permission of the owner.

**3309.1.4 Approval of permissible fireworks.** Person, firms or corporations engaged in retail display or sale of fireworks shall only sell fireworks approved by the Fire Marshal.

**3309.1.5 Approval of fireworks assortments.** Pre-packaged fireworks assortments shall bear a label listing the contents of said assortment showing the trade name, manufacturer and individual item number of each item included. Assortments not so labeled or containing individual items that have not been approved shall not be approved for sale.

**3309.1.6 Transportation.** All vehicles transporting fireworks classified by DOT as 1.3G display fireworks, shall comply with Section 3310.

**3309.1.7 Exemptions.** Nothing in this section shall be construed to prohibit any resident wholesaler, dealer or jobber to sell at wholesale such fireworks as are not herein prohibited, or the sale of any kind of fireworks provided the same are to be shipped directly out of state, or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. Such wholesalers, dealers and jobbers shall store their supplies of fireworks in accordance with Section 3304.

**3309.2 Retail display and sale.** Permissible fireworks displayed for retail sale shall not be made readily accessible to the public. A minimum of one pressurized-water portable fire extinguisher complying with Section 906 shall be located not more than 15 feet and not less than 10 feet from the hazard. "No Smoking" signs complying with Section 310 shall be conspicuously posted in areas where fireworks are stored or displayed for retail sale. In store retail of fireworks shall comply with additional requirements as set forth by the fire official.

**3309.2.1 Permit required for sale of fireworks.** It shall be unlawful for any person, firm or corporation, or retailer to sell, offer for sale or expose for sale any fireworks within the City of Winchester without a permit. This permit shall be valid for a period of not less than one (1) month, nor for a period to exceed six (6) months. Permits may be issued on a monthly basis with any portion of a month being considered a full month. Permit fees shall be accordance with Section 108.1.1, and Table 107.2.

**3309.2.2 Minimum age of sales personnel.** No person under the age of eighteen (18) years shall be allowed to sell fireworks.

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**3309.2.3 Sales to minors.** It shall be unlawful to sell any firework to any person under the age of eighteen (18) years unless accompanied by a parent, legal guardian or other competent adult.

**3309.2.4 Mercantile Occupancies.** In addition to the general requirements for the sale of permissible fireworks, the following requirements and limitations apply specifically to the retail sale and storage of approved permissible fireworks at approved mercantile occupancies.

- a) The retail sale and associated storage of approved permissible fireworks inside a building shall be limited to mercantile occupancies approved for such use by the Fire Marshal.
- b) Fireworks shall NOT be displayed or stored in a roofed-over or covered mall building.
- c) Only packaged fireworks merchandise containing approved permissible fireworks may be offered for retail sale.
- d) Smoking shall not be permitted inside of mercantile occupancies storing and retailing fireworks.
- e) "NO SMOKING" signs shall be placed every 10 feet within the retail display, sales and storage areas and shall be located where they are visible to persons approaching building entrances.
- f) In addition to the fire extinguisher requirements for a mercantile occupancy, a minimum of two pressurized water extinguishers (2-A Rating) shall be provided. One extinguisher shall be located near the retail display area and the other near the storage area. Each extinguisher shall be located between 10 to 15 feet from these fireworks areas. Extinguishers shall be visible and readily accessible at all times. Employee/staff shall be trained to use such portable fire extinguishers.
- g) Storage or retail display of fireworks is prohibited in main exit access aisles, corridors, within 5 feet of entrances to exits and exterior exit doors, and any other location deemed by the Fire Marshal to be unsafe or potentially hazardous to life safety.
- h) Use of security devices affecting the means of egress shall be subject to approval of the Fire Marshal. Where provided, the use of delayed egress locking devices on exit doors serving fireworks storage areas shall be discontinued if such locking devices are not properly maintained and/or found at any time not in proper working order. All elements of the means of egress including exit accesses, exits or exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the case of fire or other emergency.

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- i) Retail display of permissible fireworks. Fireworks displayed for retail sale shall NOT be made readily accessible to the public. To meet the intent of this code provision, the following procedures shall apply:
  1. A representative from the store shall monitor the display of the 1.4G consumer fireworks (permissible fireworks) to prevent malicious tampering, attempting to ignite, or underage accessibility. This store representative may have other duties or assignments in the immediate area of the approved fireworks display, i.e. customer service, membership confirmation, purchase verification, managers kiosk, photo processing, or jewelry counter security. Due to the nature of the cashier position, this position would not qualify as an authorized store representative for the purpose of monitoring the display of 1.4G consumer fireworks.
  2. In addition to the above conditions, a store security video system shall monitor the fireworks display during business hours. In times when the store representative's attention is focused on other duties and cannot monitor the display of the fireworks, the store video system shall be continuously monitored by store personnel. This temporary unattended option shall be utilized no longer than 10 minutes per hour while the store is open to the public.
  3. The display of fireworks must be constantly supervised by a competent person and safeguarded behind an approved physical barrier that prevents tampering or access by unauthorized persons.
  4. Display height shall not exceed 6 feet above the finished floor in display areas.
  5. Aisles 4 feet in width shall be maintained on three sides of the display area.
  6. Retail display arrangements shall be inspected and approved by the Fire Marshal prior to display and sale of approved permissible fireworks.
  
- j) Storage of permissible fireworks. The maximum quantity of approved permissible fireworks allowed in storage shall be limited to the following:
  1. Section 3301.2.3 of the Fire Prevention Code authorizes the Fire Marshal to limit the quantity of fireworks permitted at a given location.
  2. In sprinklered buildings: 250 pounds NET weight of pyrotechnic composition of the total quantity of fireworks in the building including retail display samples. Where the net weight of the pyrotechnic composition of the fireworks is not known, 25 percent of the GROSS weight of the fireworks including packaging shall

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be used as the maximum quantity permitted (approximately 1000 pounds).

3. In non-sprinklered buildings: 125 pounds NET weight of the pyrotechnic composition of the total quantity of fireworks in the building including retail display samples. Where the net weight of the pyrotechnic composition of the fireworks is not known, 25 percent of the GROSS weight of the fireworks including packaging shall be used as the maximum quantity permitted (approximately 500 pounds).

k) Arrangement of fireworks in storage shall be as follows:

1. Storage and handling areas shall be secured against unauthorized entry and safeguarded in a manner approved by the Fire Marshal.
2. Incompatible materials in storage shall be separated by either segregating the materials by a distance of not less than 20 feet or by isolating incompatible materials by a non-combustible partition extending not less than 18 inches above and to the side of the stored materials.
3. Where applicable, storage shelving shall be of substantial construction and shall be braced and anchored. Shelving materials must be compatible with the hazardous materials stored. Shelves shall be provided with a lip or guard when used for the storage of individual containers. Shelf storage of hazardous materials, including fireworks shall be maintained in an orderly manner.
4. Storage and display of fireworks shall not exceed 200 pounds per square foot of floor area actually occupied by solid merchandise.
5. Storage height shall not exceed 8 feet above the finished floor in storage areas.
6. Individual containers less than 25 pounds shall be stored or displayed on pallets, racks or shelves.
7. Except for surfacing, floors of storage areas shall be of non-combustible construction.
8. Aisles 4 feet in width shall be maintained on three sides of the storage area.
9. Storage of combustible materials or goods above fireworks storage arrangements is prohibited.
10. Storage arrangements shall be inspected and approved by the Fire Marshal prior to receipt of approved permissible fireworks.

l) Emergency planning/preparedness and hazardous materials management.

1. In accordance with Chapter 4 of the Fire Prevention code, a Fire Marshal approved Fire Safety and Evacuation Plan shall be

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prepared and maintained for mercantile occupancies (Group M buildings) having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of discharge. The plan must be approved and in place prior to approval and issuance of a Fire Prevention Code Permit for the retail sale of permissible fireworks.

2. Each application for a Fire Prevention Code Permit shall include a Hazardous Materials Inventory Statement and a Hazardous Materials Management Plan. These two plans may be combined into one and shall include the following:
  - a. A legible facility floor plan (scaled or dimensional) that clearly shows the location of all designated exits and corridors, pathways and aisles leading thereto from all fireworks display and storage areas. The plan must also designate both primary and secondary evacuation routes from fireworks display and storage areas.
  - b. The facility floor plan must show all fireworks retail display and storage areas.
  - c. The facility plan must show the location of all portable fire extinguishers.
  - d. Storage plan showing the quantities and arrangement of fireworks stored inside the building including the location and dimensions of aisles in storage areas.
  - e. An inventory list of all approved permissible fireworks to be stored for retail sale.
3. Material Safety Data Sheets (MSDS) shall be readily available on the premises for fireworks and all other hazardous materials regulated by the Fire Prevention Code. MSDS shall be located near the front main entrance so as to be readily available to responders.
4. NFPA 704 hazard identification signs/placards shall be posted at the front and rear entrances to the building and at the entrances to fireworks storage areas. Each placard shall reflect the levels of highest hazards specific to the materials within the building.
5. Individual containers, cartons or packages shall be conspicuously marked or labeled in an approved manner. Signs and markings required shall not be obscured or removed, shall be in English as a primary language, shall be durable, and the size, color and lettering shall be approved.
6. Persons responsible for the operation of areas in which fireworks are stored or handled shall be familiar with the chemical nature of the materials and the appropriate mitigating actions necessary in the event of fire or spill.
7. Responsible persons shall be designated and trained to be liaison personnel to the fire and rescue department. These persons shall aid the fire and rescue department in preplanning emergency

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responses and identifying locations where fireworks and other hazardous materials are located, and shall have access to MSDS and be knowledgeable in the sites emergency response procedures.

m) Fire Marshal inspection and final approval.

1. Initial inspection. The initial inspection involves a complete inspection of the occupancy including proposed fireworks retail display and storage areas. Where required, and if not already done, a Fire Safety and Evacuation Plan must be completed and submitted for review and approval by the Fire Marshal.
2. Final inspection. The final inspection serves as a follow-up to the initial inspection and has a five-fold purpose:
  - a. To verify that previously noted fire code violations are corrected.
  - b. To verify that an approved Fire safety and Evacuation Plan is on location and employees and staff have been trained accordingly.
  - c. To verify the storage of approved permissible fireworks in both retail display and storage areas meet the intent of the Fire Prevention Code and are in accordance with the approved facility floor plan.
  - d. To verify the fireworks being sold are permissible fireworks approved by the Fire Marshal.
  - e. To ensure retail sales operation is in accordance with the requirements of the Fire Prevention Code.
3. Final approval. Final approval is granted upon issuance of a Fire Prevention Code Permit.
4. All mercantile occupancies approved for retailing fireworks are subject to periodic spot inspections.
5. If the premises or building where approved permissible fireworks are to be sold has outstanding fire code violations, approval may not be granted by the Fire Marshal until such fire code violations and hazardous conditions are corrected or abated.

*Add Section 3310 to read:*

### **SECTION 3310 TRANSPORTATION OF EXPLOSIVES**

**3310.1 Prohibited transportation.** Explosive materials shall not be carried or transported in or on a public conveyance or vehicle carrying passengers for hire.

**3310.2 Vehicle design.** Vehicles transporting explosive materials shall be strong enough to carry the load and be in good mechanical condition. The floors shall be

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tight and have no exposed spark-producing surface on the inside of the body. Where explosive materials are transported on a vehicle with an open body, the explosive materials shall be stored in a portable magazine or closed container securely fastened to the vehicle body.

**3310.3 Vehicle prohibitions.** Where not otherwise permitted by DOTn 49 CFR listed in Chapter 45, Referenced Standards, the attachment of a trailer behind a truck, tractor and semi-trailer or truck and full trailer combination for transporting explosive materials shall not be permitted. Explosive materials shall not be transported on any pole trailer.

**3310.4 Vehicle restrictions.** Vehicles containing explosive materials shall not be taken into a garage or repair shop for repairs or storage.

**3310.5 Vehicle contents.** Only those dangerous articles authorized to be loaded with explosive materials in accordance with the provisions of this chapter shall be carried in the body of a vehicle transporting explosive materials.

**3310.5.1 Vehicle transporting explosives.** Every motor vehicle transporting any quantity of Class A or B explosives shall, at all times, be attended by a driver or other qualified representative of the motor carrier operating the vehicle. This attendant shall have been made aware of the class of explosive in the vehicle and its inherent dangers and shall have been instructed in the procedures to be followed in order to protect the public from those dangers. The attendant shall be familiar with the vehicle assigned and shall be provided with the training, necessary means, and authorization to move the vehicle where required.

**3310.6 Vehicle inspections.** The person to whom approval has been issued to transport explosive materials over the highway of the jurisdiction shall inspect those vehicles daily under such authority and employed for this purpose to determine that:

1. Fire extinguishers are filled and in working order.
2. All electrical wiring is completely protected and securely fastened to prevent short-circuiting.
3. The motor, chassis, oil pan and body undersides are reasonably clean and free of excess grease and oil.
4. Both the fuel tank and fuel line are secure and not leaking.
5. The brakes, lights, windshield wipers and the horn and steering apparatus are functioning properly.
6. The tires are properly inflated and free of defects.
7. The vehicle is in proper operating condition and acceptable of handling explosive materials.

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**3310.6.1 Vehicle tires.** Tires shall be checked for proper inflation and general condition after every 2 hours or 161-km (100 miles) of travel, whichever occurs first, and at every rest stop. Flat or overheated tires shall be removed from the vehicle immediately. After removal, the tire shall be placed far enough from the vehicle so that a spontaneous ignition of the tire does not endanger the vehicle or its cargo. The tire shall be cooled below the danger of ignition, and the problem shall be corrected before it is replaced on the vehicle.

**3310.7 Vehicle signs.** Motor vehicle transporting any quantity of explosive materials shall display all placards, lettering or numbering in accordance with DOTn 49 CFR.

**3310.8 Separation of detonators and explosives.** Detonators shall not be transported in the same vehicle with Class A or B explosive materials or blasting agents, except as permitted by DOTn 49 CFR listed in Chapter 45.

**3310.9 Vehicle traveling clearances.** Vehicles transporting explosive materials and traveling in the same direction shall not be driven within 300 feet (91440 mm) of each other.

**3310.10 Vehicle routing.** The route followed by vehicles transporting explosive materials shall not pass through congested areas and heavy traffic, except as designated by the fire code official.

**3310.11 Vehicular restrictions.** Explosive materials shall not be transported through any prohibited vehicular tunnel or subway or over any prohibited bridge, roadway, or elevated highway.

**3310.12 Portable fire extinguishers.** Every vehicle transporting explosive materials shall be equipped with portable fire extinguishers capable of ready access, filled and ready for immediate discharge in accordance with Sections 3309.12.1 and 3309.12.2.

**3310.12.1 Small trucks.** At least two portable fire extinguishers with a minimum 4-A:20-B:C rating shall be provided on trucks with a gross vehicle weight of *less than 14,000 pounds (6356 kg)*.

**3310.12.2 Large trucks.** At least two portable fire extinguishers with a minimum 4-A:70-B:C rating shall be provided on trucks with a gross vehicle weight of *14,000 pounds (6356 kg) or greater*.

**3310.13 Fire extinguishers.** Only listed fire extinguishers shall be used. Fire extinguishers shall be designed, constructed, and maintained to allow a visual determination that extinguisher is fully charged.

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**3310.13.1 Extinguisher location.** Extinguishers shall be located where they are accessible for immediate use.

**3310.13.2 Extinguisher recharged.** Extinguishers shall be examined and recharged periodically according to manufacturer recommendations and or NFPA 10.

**3310.13.3 Temperature.** Where motor vehicles are operated in temperatures below  $-17.8^{\circ}\text{C}$  ( $0^{\circ}\text{F}$ ), dry chemical extinguishers shall be pressurized with nitrogen.

**3310.14 Operating precautions.** A person shall not smoke, carry matches or any other flame-producing device, or carry unauthorized firearms or cartridges while in or near a vehicle transporting explosive materials. Such vehicle shall not be driven, loaded or unloaded in a careless or reckless manner.

**3310.15 Spark protection.** Spark producing metal or tools, oils, matches, firearms, electric storage batteries, flammable materials acids oxidizers or corrosives shall not be carried in the body of any motor vehicle transporting explosive materials.

**3310.16 Vehicles.** Vehicles transporting explosive materials shall not be left unattended at any time within the jurisdiction. Unauthorized persons shall not ride on vehicles transporting explosive materials.

**3310.17 Vehicle parking and transfer.** A vehicle transporting explosive materials shall not be parked, attended or unattended, on any roadway within the jurisdiction or adjacent to or in proximity to any structure, including a bridge, tunnel, dwelling, building or place where people work, congregate or assemble, before reaching the vehicle's destination. Explosive materials shall not be transferred from one vehicle to another except under emergency conditions in accordance with Section 3309.16.1.

**3310.17.1 Emergency conditions.** In the event a vehicle transporting explosive materials breaks down, is involved in an accident or catches fire, both the local fire and police departments shall be promptly notified to help safeguard such emergencies. Only in the event of a breakdown or accident shall explosive materials be transferred from the disabled vehicle to another and then only under proper and qualified supervision.

**3310.18 Delivery.** Delivery shall only be made to authorized persons and into approved magazines or approved temporary storage or handling areas.

**3310.19 Explosive materials at terminals.** The fire code official shall designate the location and specify the maximum quantity of explosive materials which are

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to be loaded, unloaded, reloaded or temporarily retained at each terminal where such operations are permitted.

**3310.20 Carrier responsibility.** Carriers shall immediately notify the fire code official when explosive materials are received at terminals.

**3310.21 Notice to consignee.** Carriers shall immediately notify consignees of the arrival of explosive materials at terminals.

**3310.22 Consignee responsibility.** Upon notification that a shipment of explosive materials is in the possession of any carrier, the consignee shall remove said explosives within 48 hours, excluding Saturdays, Sundays and holidays, to a storage area complying with the provisions of this chapter.

**3310.23 Local enforcement.** The Winchester Fire and Rescue Department shall have the authority to enforce Section 3309 pertaining to the Transportation of Explosives within the City of Winchester.

**3310.24 Vehicles utilized for transportation of explosives.** Vehicles utilized for the transportation of explosives within the City of Winchester shall have a permit as indicated in Sections 3301.2 and 108.1.1.

*Add Section 3311 to read:*

### **SECTION 3311 TRANSPORTATION OF BLASTING AGENTS**

**3311.1 Vehicle.** The person in charge of and driving vehicles transporting blasting agents shall be at least 21 years of age and be in accordance with Chapter 33.

**3311.2 Vehicle condition.** Vehicles transporting blasting agents shall be maintained in a safe operating condition at all times and be in accordance with Chapter 33.

**3311.3 Vehicle signs.** Vehicles transporting blasting agents shall be placarded in accordance with DOTn 49 CFR and DOTy 27 CFR listed in chapter 45 and be in accordance with Chapter 33.

**3311.4 Vehicle contents.** Oils, matches, firearms, acids or other corrosive liquids shall not be carried in the bed or body of any vehicle transporting blasting agents and be in accordance with Chapter 33.

**3311.5 Personnel condition.** A person shall not be permitted to ride, drive, load or unload a vehicle containing blasting agents while smoking or under the influence of alcohol or drugs and be in accordance with Chapter 33.

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**3311.6 Local enforcement.** The Winchester Fire and Rescue Department shall have the authority to enforce Section 3310 pertaining to the Transportation of Blasting Agents within the City of Winchester.

**3311.7 Vehicles utilized for transportation of explosives.** Vehicles utilized for the transportation of explosives within the City of Winchester shall have a permit as indicated in Sections 3301.2 and 108.1.1.

*The following provisions from Appendix D of the IFC are part of this code:*

**D101** through **D107** (Includes all provisions)

*Change D103.3 to read:*

**D103.3 Turning radius.** The required turning radius of a fire apparatus access road shall be 27 feet inside radius and 49 feet outside radius.

*Change Section D103.6 to read:*

**D103.6 Signs.** Where required by the fire code official, fire apparatus access roads shall be marked with permanent signs complying with the following specifications and Figure D103.6:

1. Metal construction 12 inches by 18 inches.
2. Red letters on reflective white background with 3/8 inch red trim stripe around entire outer edge of sign.
3. Lettering on sign to be: "NO PARKING OR STANDING FIRE LANE"
4. Lettering size to be as follows: "NO PARKING" and "STANDING" is 2 inches, "OR" is 1 inch, "FIRE LANE" is 2 ½ inches and the arrow with the solid shaft is 1 inch by 6 inches with the solid head 1 ½ inches wide and 2 inches deep.
5. Signs are to be mounted with the bottom no less than 7' from the ground and no more than 7'6" to the ground, unless otherwise directed by the fire code official.
6. Posts for signs, when required, shall be metal and securely mounted, unless written permission for alternatives is obtained prior to installation from the fire code official. Signs should be spaced as

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shown on approved plans. In long stretches, the maximum distance between signs is 50 feet unless otherwise approved by the fire code official.

7. Other special signs may be approved by the fire code official.

**Figure D103.6**

### Fire Lane Signs

**SIGN TYPE "A"**



Standard wording with an arrow on the bottom pointing to the right. One sign mounted parallel to the line of curbing or pavement edge at the end of the painted area.

**SIGN TYPE "C"**



Standard wording with an arrow on the bottom pointing to the left. One sign mounted parallel to the line of curbing or pavement edge at the end of the painted area.

**SIGN TYPE "D"**



Standard wording with no arrow. Two signs, back to back, mounted perpendicular to the line of curbing or pavement edge.

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*Add Table D103.6 to read:*

**Table D103.6**

<b>Width Curb to Curb</b>	<b>One-Way Traffic</b>	<b>Two-Way Traffic</b>	<b>Posting of Signage</b>
Less than 20'	No parallel parking on either side of street	No parking	Posting on both sides of street
20' to 30'	Parking on one side of street	No parking	Posting on both sides of street
30' to 35'	Parallel parking allowed on both sides of street	Parallel parking on one side as determined by the Fire Department	Posting on one side of street
35' or greater	No fire lane will be established	No fire lane will be established	No posting required

*Delete Section D103.6.1 and D103.6.2.*

*Add Section D103.7 to read:*

**D103.7 Curb Designation.** Where curbing is provided adjacent to the fire lane, it must be painted yellow within the limits of the fire lane. In areas without curbing a 6 inch yellow line shall be applied to the edge of the pavement. Paint shall be highway traffic grade.

*Add Section D103.8 to read:*

**D103.8 Site Inspection.** A field inspection shall be conducted for final approval of fire lanes. Fire lanes must have final approval prior to the issuance of a certificate of occupancy.

**SECTIONS 10-52 - 10-80. RESERVED.**