

Ordinance No. _____

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MEMPHIS, TENNESSEE, CHAPTER 15, TIRE BUSINESS AND TIRE HAULER REGULATION, TO PROVIDE FURTHER REQUIREMENTS FOR TIRE BUSINESS RETAILERS REGARDING THE STORAGE AND HAULING OF TIRES

WHEREAS, it is the desire of the Memphis City Council to take action to reduce the amount of illegal dumping in the City of Memphis, especially as it pertains to tires, in order to help improve blight that is present in Memphis neighborhoods; and

WHEREAS, the improper placement of tires on sidewalks, streets, utility easements, vacant lots, public rights of way, and in other areas destructive to neighborhoods, contributes to blight and the propagation of illegal dumping.

WHEREAS, it is necessary to amend certain sections of the Memphis City Code Chapter 9-58, Tire Business and Tire Hauler Regulation, to provide further requirements for tire business retailers regarding the storage and hauling of tires.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Memphis, that,
Section 1. Chapter 15, Article III, “Tire Business and Tire Hauler Regulation” of the official Memphis Code of Ordinances, is hereby amended as follows:

Sec. 15-46. Purpose and intent.

It is declared to be the purpose and intent of the city to protect the public health, safety, and welfare of its citizens, prevent the spread of disease and creation of nuisances, and to protect and enhance the quality of its environment. The purpose of this chapter is to institute and maintain a comprehensive city-wide program for tire disposal which will ensure that the storage, transportation, collection, processing and disposal of tires does not adversely affect the health, safety, and well-being of the public and does not degrade the quality of the environment.

Sec. 15-47. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dump means to throw, discard, place, deposit, discharge, bury, or dispose of.

Elements of nature means rainfall, snow, sleet, hail or other natural precipitation.

Manifest means a form or document used for identifying the quantity and the origin, routing, and destination of tires during transportation from the point of generation, through any intermediate points, to an end user, processor or disposer.

Person means any and all persons, natural or artificial, including any individual, firm or association.

Storage means to place, collect, or accumulate tires that are not for sale or resale as tires, whether the tires are directly on the ground, in roll-off containers, or otherwise.

Tire means a continuous solid or pneumatic rubber, covering encircling the wheel of a bicycle, motorcycle, automobile, truck, trailer, tractor or other vehicle.

Tire business means and includes any place or establishment engaged in the business of reselling tires or that generates waste tires and is occupied, used or maintained for the purpose of offering, transporting, repairing, processing, storing, utilizing, and disposing of any and all types of such tires.

Tire marking means the marking of a tire with the tire business permit number.

Tire recycling facility means a county facility, mandated and licensed pursuant to the Tennessee Solid Waste Management Act, which recycles or properly disposes of tires.

Waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. The term "waste tire" also includes any tire that is destined for a tire disposer or reprocessor (i.e., recapper).

Waste tire hauler means any person or entity permitted by the City engaged in the business of picking up or transporting waste tires for the purpose of removal to a tire recycling facility, waste tire disposer, processor, end user, or disposal facility.

Waste tire disposer means any person who is approved by the state department of environment and conservation to receive waste tires from waste tire generators or waste tire haulers for the purpose of waste tire processing, shredding or otherwise facilitating recycling or resource recovery techniques for waste tires.

Waste tire generator means any person or entity that generates waste tires. Generators may include, but are not limited to, retail tire dealers, retreaders, waste tire disposers not approved by the state department of environment and conservation, automobile dealers, private company vehicle maintenance shops, garages, and service stations.

Sec. 15-48. Tire business permits.

All tire businesses located within the city limits engaging in the resale of tires or the generation of waste tires shall be issued a permit annually by the city, by and through its permits office for a nonrefundable fee of \$25.00. Tire businesses with multiple locations must purchase a permit for each location. Tire businesses that have their own trucks utilized to transport waste tires will

receive one decal included with the permit fee. A separate decal must be purchased by such business for any additional truck utilized by the tire business to transport waste tires at a cost of \$15.00 per decal. The city will conduct random inspections of such tire businesses for the sake of monitoring compliance with the foregoing requirement. **Tire business permits issued under this article are personal to the applicant and may not be transferred, leased assigned, or given away or sold in any manner or under any circumstance. It shall be the duty of each registrant and permittee to advise the permits office in writing in ten business days of any change to any item for which representation or response was made in its application for registration or permit.**

A. Application. Every person, firm or corporation obligated to comply with the permit requirement set forth herein shall make written application to the city. The application shall be made on a form obtained from the city permits office setting forth, among other things, the following:

1. Name, physical address, telephone and facsimile number of the applicant;
2. Tax identification number or taxpayer identification number;
3. Proof of current county business license, issued to the applicant at the proposed business address;
4. County code enforcement use and occupancy certificate;
5. Name, mailing address, telephone and facsimile number of the owner of the tire business (if different from subsection A.1 of this section);
6. **Name, mailing address, telephone, facsimile number and copy of a valid City of Memphis tire hauler permit of the waste tire hauler who will be transporting tires and waste tires to and from the tire business.**
7. The estimated maximum number of tires that will be stored on site;
8. The current physical address of the site;
9. A statement setting forth and describing the available space for properly accommodating and protecting all tires;
10. Proof of insurance required in accordance with the state financial responsibility laws;
11. Such other and further information as the permits office may require.

B. Annual fees.

1. All permit and decal fees are due annually by July 1 of each calendar year at the city permits office. These annual fees shall be paid in advance of the issuance of such permit and decal and shall be prorated as necessary.

2. A current valid permit or decal may be replaced by the permits office for a fee of \$15.00.

C. Issuance. The permits office shall issue a permit and decal to a tire business which submits the required and completed application, pays to the city the fee as required in this chapter, and has demonstrated compliance with this chapter and all applicable city ordinances. Each tire business registered in accordance with the provisions of this chapter shall immediately post such permit and decal in a prominent manner, or cause such permit to be posted in a conspicuous place within the premises where such tire business is thereby authorized to be established, maintained or operated. The decal shall be conspicuously displayed on each vehicle owned by such tire business that is utilized to transport used or waste tires. Any permit or decal issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred without approval by the city permits office and shall expire upon termination of the existence of the tire business or revocation of such business' permit.

D. Effective period. The permit shall be effective beginning on July 1 until the next ensuing June 30, on and after which date it shall be null and void.

Sec. 15-49. Tire hauler permit.

All tire haulers, not affiliated with a tire business that is properly permitted as required herein, transporting used or waste tires within the city limits shall be issued a permit and decal annually by the city, by and through its permits office for a nonrefundable fee of \$250.00. Tire haulers with multiple locations must purchase a permit for each location. Tire haulers will receive one decal included with the permit fee. A separate decal must be purchased by such hauler for any additional vehicles utilized by the hauler to transport waste tires at a cost of \$15.00 per decal. **Tire hauler permits issued under this article are personal to the applicant and may not be transferred, leased assigned, or given away or sold in any manner or under any circumstance. It shall be the duty of each registrant and permittee to advise the permits office in writing in ten business days of any change to any item for which representation or response was made in its application for registration or permit.**

A. *Application.* Every person, firm or corporation obligated to comply with the permit and decal requirement set forth herein shall make written application to the city. The application shall be made on a form obtained from the city permits office setting forth, among other things, the following:

1. Name, physical address, telephone and facsimile number of the applicant;
2. Tax identification number or taxpayer identification number (if applicable);
3. Proof of current county business license, issued to the applicant at the proposed business address;
4. Proof of insurance required in accordance with the state financial responsibility laws;
5. Such other and further information as the permits office may require.

B. Annual fees.

1. All permit and decal fees are due annually by July 1 of each calendar year at the city permits office. These annual fees shall be paid in advance of the issuance of such permit, and such fee shall be prorated as necessary.

2. A current valid permit or decal may be replaced by the permits office for a fee of \$15.00.

C. *Issuance.* The permits office shall issue a permit and decal to a tire hauler who submits the required and completed application, pays to the city the fee as required in this chapter, and has demonstrated compliance with this chapter and all applicable city ordinances. Each waste tire hauler registered in accordance with the provisions of this chapter shall conspicuously post and maintain such decal in his or her vehicle which is used for transporting tires at all times. Any permit or decal issued hereunder shall not be sold, assigned, mortgaged or otherwise transferred without approval by the city permits office and shall expire upon termination of the tire hauler's business or revocation of such hauler's permit.

D. *Effective period.* The permit shall be effective beginning on July 1 until the next ensuing June 30, on and after which date it shall be null and void.

E. *Permit exemptions.* The following persons are exempt from the tire hauler permit requirements set forth herein:

1. A tire hauler who is regulated or licensed by, and is currently in compliance with, state or federal agencies such as the department of transportation;

2. A private individual transporting the individual's own waste tires to an approved tire disposal or tire recycling facility;

3. Haulers removing four or less tires from a residential location, which is under contract to remove that residence's solid waste; or

4. Anyone transporting four or fewer used tires directly from a used tire generator facility to a point of re-use or proper storage prior to their re-use.

Sec. 15-50. Denial of permit or renewal; suspension or revocation of permit.

In addition to the penalties set forth in section 9-58-12, the permits office may refuse to issue or renew a tire business or tire hauler permit or may suspend or revoke such permit if:

A. The applicant or permit holder refuses to allow entry into the tire business by the authorized representatives of the city or otherwise willfully obstructs the inspection of the tire business;

B. There are repeated or serious violations of any city ordinance by the tire business or tire hauler;

C. The tire business or tire hauler fails to comply with any provisions of this chapter and/or any other applicable city ordinance;

D. The tire business or tire hauler fails to comply with any applicable state or federal law, rule or regulation, **including state and local traffic laws**; or

E. The tire business knowingly authorizes a tire hauler who is not properly permitted as required in section 9-58-4 to transport tires on behalf of such business.

Sec. 15-51. Destruction of tires.

Any tire that is no longer suitable for its original intended purpose or deemed unfit for resale by a tire business shall be rendered unusable and properly disposed of at an authorized tire disposal or recycling facility. Such unusable and unfit tires may not be returned to the customer for disposal by that customer, but the customer may, in writing, request their return for continued use and, in so doing, releases the facility from all liability for that reuse. Each tire business shall have six months from the effective date of the ordinance from which this chapter is derived to comply with this provision. Failure to comply with this requirement shall be grounds for revocation of the permit holder's permit in accordance with section 9-58-5.

Sec. 15-52. Storage of tires.

Tire businesses shall properly store tires at each facility in accordance with local, state and federal laws. Prior to storage, each tire shall be permanently marked with the **tire business** permit number. To eliminate potential nuisances of litter, insect breeding, fire hazards and other health risks, each tire business shall at all times during storage:

A. Store tires in covered or enclosed areas, or under an impermeable cover, in accordance with applicable health and safety laws, including but not limited to the city's fire prevention code, **to prevent the exposure to and collection of elements of nature**, and accumulation of water, **dirt or other foreign materials**;

B. **Tires stored outside shall be screened from public view.**

C. Secure tires at each facility to prevent easy access or theft (lock, chain, or store inside a building or other securable structure);

D. **Used tires, waste tires and tire pieces shall be stored separately.**

E. Accumulate tires in piles in accordance with the city's fire prevention code, **but not in excess of seven feet in height**;

F. Isolate tires from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers;

G. Store no more than 100 tires in each bay **or 100 tires per 1,500 square feet of inside storage space and a maximum of 500 tires total.**

Sec. 15-53. Transport and place for disposal of tires.

- A. All tires and waste tires shall be covered and secured during transport upon any public road or highway by a permitted waste tire hauler.
- B. It shall be unlawful for any person or tire business to cause, suffer or allow the dumping of tires at any place in the city, including, without limitation, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, any public or private property in the city or any waters in the city. Notwithstanding the foregoing, residential property owners within the city may properly discard up to four rimless used or waste tires on the curbside immediately in front of the property owner's residence for normal trash pickup without violating this provision; provided that such tires are discarded for removal within 24 hours of the property owner's designated day for trash pickup.
- C. It shall be unlawful for any person or tire business to cause, suffer, or allow the disposal of whole tires in a landfill.
- D. Tires shall be properly disposed of in accordance with section 9-58-9 by the delivery and manifesting of tires to an authorized tire disposal or tire recycling facility designated by the city. Tire businesses contracting with a tire hauler for the proper disposal of tires generated by such business shall require such hauler utilize a transmittal manifest documenting the pickup and delivery of the tires to an authorized tire disposal or tire recycling facility.
- E. It shall be unlawful for any person, tire business, or tire hauler to transport or dispose of tires or waste tires that are not marked with the tire business permit number.

Sec. 15-54. Disposal records/transmittal manifest.

- A. Tire businesses shall keep disposal records in the form of a **daily** transmittal manifest, as prescribed by the city, **of the numbers of tires and waste tires received and transported away** at each business location for a minimum of three years and make such records readily available upon request at reasonable hours for inspection by representatives of the city. The **daily** manifest must be maintained legibly and signed by an authorized representative of the tire business and clearly state the following:
1. Name, address, telephone number, permit number and authorized signature of the tire hauler;
 2. Name, address, telephone number, and authorized signature of the tire business who is contracting for the removal of the tires along with the permit number for such business;
 3. Date **and time** of removal/transport and the number of tires being transported;
 4. Name, address, and telephone number of the location where the tires are to be delivered; and

5. Upon delivery, the name and signature of the person accepting the tires, including the date of acceptance, **the number of tires received, and certification the received tires are properly marked with permit numbers.**

B. The manifest required by this section shall at all times accompany tires while in transit. Any tire business directly delivering waste or used tires generated at its business location to a tire disposal or tire recycling facility must also utilize the **daily** transmittal manifest and make such manifest available for production or inspection by representatives of the city, upon request. The original manifest shall be maintained by the tire business evidencing all information and signatures required herein, notwithstanding the use of a tire hauler or direct delivery by the tire business. A tire hauler contracted to deliver tires to a recycling facility or disposal facility must maintain a duplicate copy of the manifest reflecting the delivery of such tires for proper disposal. The tire recycling or tire disposal facility shall sign the manifest upon acceptance of the tires and also maintain a copy of the manifest for the facility's records.

C. **It shall be unlawful for tire businesses to accept delivery of tires or waste tires without tire markings. All tire businesses shall immediately report to City of Memphis code enforcement if tires or waste tires are delivered without tire markings.**

Sec. 15-55. Redemption program.

A. For the purpose of assisting with the proper disposal of waste or scrap tires, any county resident, other than a tire business or waste tire carrier, generator, hauler, disposer, or sorter, presenting an illegally disposed used or waste tire to an authorized tire disposal or recycling facility shall receive a redemptive value of \$1.00 per tire. The tire disposal or tire recycling facility receiving such tires shall require that the person presenting such tires for redemption execute an affidavit certifying that the tires were not stolen and that such person was not hired to haul such used or waste tires for disposal. Upon execution of such affidavit, the permits office is hereby authorized to make payment to the affiant after five calendar days and shall properly record and retain documentation reflecting such payment for a period of 12 months. Any person presenting a used or waste tire for redemption shall present valid Tennessee identification evidencing a Shelby County address. Information regarding the location of authorized tire disposal and tire recycling facilities shall be made available through the permits office.

B. The redemption program established in subsection A of this section shall commence immediately upon the effective adoption of the ordinance from which this chapter is derived and shall expire within 12 months of same, unless prior to such date the city council, after conducting public hearings, finds that the purpose of the program has yet to be fully achieved, in which case it may extend the effective period of the program for an additional two years.

C. **Tire businesses and haulers may dispose of up to ten tires every thirty days at a City of Memphis owned and operated convenience center for no associated cost.**

Sec. 15-56. Administration/enforcement.

A. Administration and enforcement of this chapter shall be the responsibility of the city permits office, city police department, public works division, and community enhancement division. The city, by and through its authorized representatives, is hereby authorized to enter any property regulated by this chapter, at reasonable or necessary times in order to properly inspect for violations.

B. The permits office is hereby authorized to promulgate all such rules and regulations considered necessary and proper to effectuate the implementation and enforcement of this chapter.

Sec. 15-57. Violations and penalties.

A. The improper storage of one or more used tires shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each improperly stored tire on the location of the tire business. Each day of continued violation of this subsection constitutes a separate offense.

B. The transport of one or more tires without the required permit and decal shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each tire being transported in violation of this chapter. Each day of continued violation of this subsection constitutes a separate offense. In addition, if the improper transport of one or more tires was done from an identified motor vehicle, with the aid of an identified motor vehicle, or in connection with an identified motor vehicle, a traffic citation shall be issued against such vehicle for \$50.00 for each offense of a tire or tires being transported in violation of this chapter. Furthermore, such traffic citation for improper dumping of tires, if unpaid, shall also constitute grounds for impoundment and/or immobilization of such vehicle as provided in section 11-40-27.

C. The improper transporting or dumping of a tire shall constitute a separate offense per tire and be punishable by a fine of \$50.00 for each tire found improperly dumped. Each day of continued violation of this subsection constitutes a separate offense. In addition, if the improper transporting or dumping of one or more tires was done from an identified motor vehicle, with the aid of an identified motor vehicle, or in connection with an identified motor vehicle, a traffic citation shall be issued against such vehicle for \$50.00 for each tire being transported in violation of this chapter. Furthermore, such traffic citation for improper transporting or dumping of tires, if unpaid, shall also constitute grounds for impoundment and/or immobilization of such vehicle as provided in section 11-40-27.

Sec. 15-58. Injunctive relief.

In addition to, and cumulative of, all other penalties herein provided, the city shall have the right to seek injunctive relief, for any violation of this chapter.

Sec. 15-59. Tire disposal fund.

All funds received by the city pursuant to this chapter shall solely be used to pay for the administrative and operational costs resulting from the enforcement and implementation of this chapter. The city shall also contribute \$50,000.00 for the establishment of a special fund designated by the city comptroller as the tire disposal fund which shall be used to fund the city's share of the redemption program.

Section 2. Severability. The provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

Section 3. Effective Date. This Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of Mayor in writing by the comptroller and become effective as otherwise provided by law.

SPONSORS

Rhonda Logan

Jana Swearngen-Washington

CHAIRMAN

Martavius Jones