

There came on for consideration at a duly constituted meeting of the Mayor and Members of the City Council of the City of Gulfport, Mississippi, held on the 21<sup>st</sup> day of August, 2012, the following

Ordinance:

**ORDINANCE NO. 2759**

**AN ORDINANCE TO REGULATE THE PROPER DISPOSAL OF TIRES AND THE REGISTRATION OF CERTAIN TIRE BUSINESSES AND TIRE HAULERS WITHIN THE CITY OF GULFPORT**

**WHEREAS**, the Governing Authority has determined that tires are being improperly disposed of throughout the City of Gulfport; and

**WHEREAS**, improperly stored tires provide habitats for rodents, insects, and other vermin, present a fire hazard, and serve as excellent breeding grounds for mosquitoes that carry diseases, and;

**WHEREAS**, the improper disposal of waste tires found throughout various areas of the city of Gulfport is a major fiscal and waste management problem to the City and a blight upon the appearance of the city negatively affecting economic development and depressing property values; and

**WHEREAS**, it is the intent and purpose of the City to provide for the public health, safety and welfare of the residents of the City of Gulfport specifically as it relates to the improper disposal of tires in the City and to eliminate the fiscal and waste management problem resulting from such improper activity, and to help prevent the negative effects upon economic development and real property values; and

**WHEREAS**, the Governing Authority has determined it to be in the best interest of the citizens of Gulfport to adopt this ordinance for the protection of the citizens and to establish standards for the proper disposal of tires and the permitting of tire businesses engaging in the resale of tires or that generate waste tires; and

**WHEREAS**, the Governing Authority deems it necessary to enact administrative procedures, controls, and penalties related to controlling the problems related to waste tires;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULFPORT, MISSISSIPPI, AS FOLLOWS:**

**SECTION 1.** That the matters and things set forth in the above preamble are hereby accepted as stated as the findings of the Gulfport City Council.

**SECTION 2.** That the Code of Ordinances of the City of Gulfport, Mississippi, should be amended to include a section that reads as follows:

**Sec. 1. 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 ordinance is to institute and maintain a city-wide program of standards related to tires which will assure that the storage, transportation, collection, processing and disposal of tires does not adversely affect the health, safety, and well-being of the general public and does not degrade the quality of the environment, potential of economic development, and the value of real properties.

**Sec. 2. Definitions.** As used in this Article, the following words and phrases shall have the

meaning ascribed to them herein:

- A. *"Dump"* shall mean to throw, discard, place, deposit, discharge, bury, or dispose of.
- B. *"Person"* shall mean any and all persons, natural or artificial, including any individual, firm or association.
- C. *"Tire"* shall mean a continuous solid or pneumatic rubber covering encircling the wheel of a bicycle, motorcycle, automobile, truck, trailer, tractor or other vehicle.
- D. *"Tire Business"* shall mean and include any place or establishment engaged in the business of selling/reselling new, previously used, second hand, or second quality 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.
- E. *"Waste tire"* shall mean a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect. Waste tire also includes any tire that is destined for a tire disposer or reprocessor (i.e., recapper).
- F. *"Waste tire hauler"* shall mean any person 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, or other location, or anyone transporting tires from a waste tire generator to any location; whether or not licensed by the MDEQ.
- G. *"Waste tire disposer"* shall mean any person who is approved by the Mississippi Department of Environment Quality 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.
- H. *"Waste tire generator"* shall mean 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 MDEQ, automobile dealers, private company vehicle maintenance shops, garages, service stations.
- I. *"Store"* shall mean to cause a tire to rest or stay in a location.

**Sec. 3. 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 of Gulfport, by and through it's the department duly designated to handle such permits, for a non-refundable fee of Twenty-five (\$25.00) dollars. 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 (1) decal included with the permit fee. A separate decal must be purchased by such business location for any additional truck utilized by the tire business to transport waste tires at a cost of \$15 per decal. The City shall conduct random inspections of such tire businesses for the sake of monitoring compliance with the foregoing requirement.

- 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 of Gulfport setting forth, among other things, the following:
  - 1. Name, physical address, telephone, email address, and facsimile number of the applicant;
  - 3. Tax identification number or tax payer identification number;
  - 3. Proof of current City of Gulfport Business License, issued to the applicant at the proposed business address;
  - 4. City of Gulfport Occupancy Certificate;
  - 5. Name, mailing address, telephone and facsimile number of the owner of the tire business (if different from number 1 above);
  - 6. The estimated number of tires that will be stored on site;
  - 7. The current physical address of the site;
  - 8. A statement setting forth and describing the available space for properly accommodating and protecting all tires;
  - 9. Proof of public general liability insurance in amounts as determined by the City of Gulfport Building Code Services;
  - 10. Such other and further information as the City of Gulfport may require.

**B. Annual Fees.**

1. All permit and decal fees are due annually by July 1st, of each calendar year at the City of Gulfport. These annual fees shall be paid in advance of the issuance of such permit and decal and shall be prorated as necessary.  
A current valid permit or decal may be replaced by the City of Gulfport for a fee of Fifteen dollars (\$15.00).

**C. Issuance.** The City of Gulfport 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 Article, and has demonstrated compliance with this Article and all applicable city ordinances. Each tire business registered in accordance with the provisions of this Article 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 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 October first until the next ensuing thirtieth day of September, on and after which date it shall be null and void.

**Sec. 4. 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 required to possess a permit and decal issued annually by the City of Gulfport, by and through its department duly designated to issue said permits, for a non-refundable fee of Twenty-five (\$25.00) dollars. Tire haulers with multiple locations must purchase a permit for each location. Tire haulers will receive one (1) 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 per decal.

**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 of Gulfport setting forth, among other things, the following:

1. Name, physical address, telephone and facsimile number of the applicant;
2. Tax identification number or tax payer identification number (if applicable);
3. Proof of current City of Gulfport Business License, issued to the applicant at the proposed business address;
4. Proof of public general liability insurance and automobile insurance;
5. Such other and further information as the may require.

**B. Annual Fees.**

1. All permit and decal fees are due annually by July 1st, of each calendar year at the City of Gulfport . These annual fees shall be paid in advance of the issuance of such permit, such fee shall be prorated as necessary.  
A current valid permit or decal may be replaced by the City of Gulfport for a fee of Fifteen dollars (\$15.00).

**C. Issuance.** The City of Gulfport 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 Article, and has demonstrated compliance with this Ordinance and all applicable city ordinances. Each waste tire hauler registered in accordance with the provisions of this Article shall conspicuously post and maintain such decal in his/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 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 October first until the next ensuing thirtieth day of September, 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; or  
A private individual transporting the individual's own waste tires to an approved tire disposal or tire recycling facility.

**Sec. 5. Denial of permit or renewal; suspension or revocation of permit.** In addition to the penalties set forth in this ordinance, the City of Gulfport 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 City inspection of the tire business; or
- B. There are repeated or any single serious violation(s) of any city ordinance by the tire business or tire hauler; or
- C. The tire business or tire hauler fails to comply with any provisions of this Ordinance and/or any other applicable city ordinance(s); or
- D. The tire business or tire hauler fails to comply with any applicable state or federal law, rule or regulation;
- E. The tire business knowingly authorizes a tire hauler who is not properly permitted as required in this Ordinance to transport tires on behalf of such business.

**Sec. 6. 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. Each tire business and tire hauler shall have one month (1 month) from the effective date of this ordinance to comply with this provision. Failure to comply with this requirement shall be grounds for revocation of the permit holder's permit.

**Sec. 7. Storage of Tires.** Tires shall be properly stored in accord with local, state and federal law. To eliminate potential nuisances of litter, insect breeding, fire hazards and other health risks, at all times during storage:

- A. If a business: During hours of operation, 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 accumulation of water; During hours the business is closed, no tires may be left outdoors unless in systems that totally protect the tires from the elements of weather and from the view of the public. Detached structures enclosing tires shall be structures designed for the purpose of such storage and structures approved by the Gulfport Building Code department; with the intention that all such structures meet the structural requirements of the city and shall comply with any building or construction standards or codes. Painted plywood structures are specifically not permitted.
- B. Neither tire businesses, tire haulers or individuals shall not store tires outdoors for more than one day. Neither individuals nor tire businesses may use tires as structural members of any kind.
- C. Tires shall be secured at tire business facilities to prevent easy access or theft. Lock, chain, or store inside a building or other securable structure;
- D. Waste tires shall be accumulated in piles hidden from the view of public and in accordance with the City's fire prevention code;
- E. Tires shall be isolated 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.
- F. Tire businesses shall store no more than 100 tires in each vehicle service bay or 100 tires per 1,500 square feet of inside storage space, whichever is less.

**Sec. 8. Place for Disposal of Tires.**

- A. 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 of Gulfport 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 (4) rimless used or waste tires on the curbside immediately in front of the property owner's residence for normal trash pick-up without violating this provision; provided that such tires are discarded for removal within twenty-four (24) hours of the property owner's designated day for trash pick-up.

- B. It shall be unlawful for any person or tire business to cause, suffer, or to knowingly allow the disposal of whole tires in an unapproved landfill.
- C. Tires shall be properly disposed of in accordance with this Ordinance by the delivery and manifesting of tires to an authorized tire disposal or tire recycling facility designated by the State of MS Department of Environmental Quality or equivalent agency of another state. Tire Businesses contracting with a tire hauler(s) for the proper disposal of tires generated by such business shall require such hauler(s) utilize a transmittal manifest documenting the pick-up and delivery of the tires to an authorized tire disposal or tire recycling facility.

**Sec. 9. Disposal Records/Transmittal Manifest**

A. Tire Businesses shall keep disposal records in the form of a transmittal manifest, as prescribed by the State and in also in accordance with this Ordinance, at each business location for a minimum of three (3) years and make such records readily available upon request at reasonable hours for inspection by representatives of the City. The manifest must be maintained and signed off in triplicate and clearly state, in addition to any requirements imposed by state and federal regulations, the following:

1. Name, address, telephone number, permit number and authorized signature of the tire hauler; and  
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; and
3. Date of removal/transport and the number of tires being transported; and
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.

B. The manifest required by this section shall at all times accompany tires while in transit. Any tire business operating in the city, whether based in Gulfport or not, directly delivering waste or used tires generated at its business location to a tire disposal or tire recycling facility must also utilize the 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.

**Sec. 10. Administration/Enforcement.**

- A. Administration and enforcement of this Article shall be the responsibility of the City of Gulfport. The City, by and through its authorized representatives, is hereby authorized to enter any property regulated by this ordinance, at reasonable or necessary times in order to properly inspect for violations.
- B. The City of Gulfport is hereby authorized to promulgate all such rules and regulations considered necessary and proper to effectuate the implementation and enforcement of this Ordinance.

**Sec. 11. Violations and Penalties.**

A. In addition to the penalties set forth in this Ordinance, any tire business or tire hauler violating or failing to comply with any provision of this ordinance shall be guilty of a misdemeanor, subject to a civil penalty of up to one thousand dollars (\$1000) per offense. Each day of continued violation shall constitute a separate offense.

- B. The improper storage of one or more tires shall constitute a separate offense per tire and be punishable by a fine of fifty dollars (\$50) per improperly stored tire. Each day of continued violation of this subsection constitutes a separate offense.
- C. 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 fifty dollars (\$50) for each tire being transported in violation of this Article. Each day of continued violation of this subsection constitutes a separate offense.
- D. The improper dumping of a tire by a person, business, entity, or other shall constitute a separate offense per tire and be punishable by a fine of not less than fifty dollars (\$50) nor more than two hundred fifty dollars (\$250) per tire found improperly dumped that is related back to a specific business, entity, or person. Each day of continued violation of this subsection constitutes a separate offense.

**Sec. 12. Injunctive relief.** In addition to, and cumulative of, all other penalties herein provided, and except in the case of superseding laws to the contrary, the City shall have the right of injunctive relief, for any violation(s) of this Ordinance, or the right to request injunctive relief if the violator is not based in Gulfport and/or is protected by superseding law. Such relief shall be requested by the City administration through a court of competent jurisdiction.

**Sec. 13. Tire Fee Fund.** All funds received by the City pursuant to this article shall solely be budgeted to such accounts within the city as deemed fit by the Governing Authority for beautification purposes including but not limited to landscaping, grass cutting, planting, clearing, watering, cleaning, decorative water fountains, sprinklers and irrigation systems, and other such uses.

**Sec. 14.** 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.

**Sec. 15.** All provisions of the Code of Ordinances of the City of Gulfport, Mississippi, not in conflict herewith shall remain in full force and effect as heretofore provided.

**Sec. 16.** This ordinance shall be in full force and effect thirty (30) days after the date of passage, except where it shall pass unanimously, in which case it shall take full force immediately upon its passage. It shall be published according to law and shall be spread on the minutes of the Gulfport City Council.

The above and foregoing Ordinance, after having been first reduced to writing and read by the Clerk, was introduced by Councilmember Walker, seconded by Councilmember Flowers, and was adopted by the following roll call vote:

<u>AYES</u>	<u>NAYS</u>	<u>ABSENT/ABSTAIN</u>
Casey	Holmes-Hines	None
Roland		
Walker		
Dombrowski		
Flowers		
Pucheu		

**WHEREUPON**, the President declared the motion carried and the Ordinance adopted, this the 21<sup>st</sup> day of August, 2012.

(SEAL)

**ATTEST:**

/s/ Ronda S. Cole

CLERK OF THE COUNCIL

**ADOPTED:**

/s/ Ricky Dombrowski

PRESIDENT

The above and foregoing Ordinance was submitted to and approved by the Mayor, this the 22<sup>nd</sup> day of August, 2012.

**APPROVED:**

/s/ George Schloegel

MAYOR