



CITY COUNCIL
ATLANTA, GEORGIA

12-O-0357

**AN ORDINANCE BY
COUNCILMEMBERS JOYCE M. SHEPERD AND FELICIA MOORE**

**AS SUBSTITUTED BY
CITY UTILITIES COMMITTEE**

**AS SUBSTITUTED (#2) BY
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

**AS AMENDED BY
ATLANTA CITY COUNCIL**

AN ORDINANCE TO REPEAL ORDINANCE 02-O-0342, ADOPTED BY THE ATLANTA CITY COUNCIL ON MARCH 18, 2002 AND APPROVED ON MARCH 26, 2002, PERTAINING TO THE ESTABLISHMENT OF PROCEDURES FOR ENFORCING STANDARDS FOR COLLECTING, HANDLING, STORING, AND DISPOSING OF SCRAP TIRES IN THE CITY OF ATLANTA, TO INTRODUCE A REVISED SCRAP TIRE PROCEDURES AND REQUIREMENTS ORDINANCE TO BE INSERTED INTO THE CITY CODE AT CHAPTER 130 (SOLID WASTE MANAGEMENT), AT ARTICLE II AND TITLED "SCRAP TIRE ENFORCEMENT" BEGINNING AT CURRENTLY RESERVED CODE SECTIONS 130-28 THROUGH 130-36; AND FOR OTHER PURPOSES.

WHEREAS, Ordinance 02-O-0342 was adopted by the Atlanta City Council on March 18, 2002 and approved by signature of the Mayor on March 26, 2002 pursuant to City Charter Section 2-403; and

WHEREAS, said Ordinance provided for procedures for enforcing standards for collecting, handling, storing, and disposing of scrap tires within the City of Atlanta; and

WHEREAS, at the time of adoption, said Ordinance was not formally incorporated into the Code of Ordinances of the City of Atlanta; and

WHEREAS, there is a present need to rewrite and update the provisions contained in Ordinance 02-O-0342 and incorporate additional provisions related to the imposition of penalties, and to insert these new provisions into the Code of Ordinances in order to effectively deal with the growing problem of illegal scrap tire dumping within the City of Atlanta.



NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

Section 1: Ordinance No. 02-O-0342, adopted by the City Council on March 18, 2002 and approved by signature of the Mayor on March 26, 2002, pertaining to procedures for enforcing standards for collecting, handling, storing, and disposing of scrap tires in the City of Atlanta is hereby repealed.

Section 2: Article II of Chapter 130, entitled "Scrap Tire Enforcement" is hereby created at formerly reserved City Code Sections 130-28 through 130-36 to provide as follows:

Section 130-28. Title.

This Ordinance shall be known as the "The City of Atlanta Scrap Tire Enforcement Ordinance."

Section 130-29. Intent and Purpose.

The City of Atlanta finds that protection of the environment is vital to the health, welfare and economic progress of the City of Atlanta and its citizens. Therefore, it is the intent of this Ordinance to establish a regulatory and procedural process that prohibits the unlawful dumping of scrap tires from the point of generation to the point of disposal.

Section 130-30. Georgia Solid Waste Management Code and Scrap Tire Management Regulations Incorporated by Reference.

The provisions of the Official Code of Georgia Annotated, at Title 12, Chapter 8, Article 20 (O.C.G.A. § 12-8-20, et seq.) and the Rules for Solid Waste Management, Georgia Rules and Regulations Chapter 391-3-4 are hereby incorporated by reference into this Article and made a part of this Code.

Section 130-31. Definitions.

a. Dumping means to abandon, dispose of, throw, discard, place, deposit, discharge, bury, or burn.

b. End User means the last person who uses the scrap tires, chips, crumb rubber, or similar materials to make a product with economic value, or in the case of energy recovery, the person who utilizes the heat content or other forms of energy from the incineration or decomposition of scrap tires, chips, or similar materials.

c. Financial Assurance means a mechanism designed to demonstrate that funds will be available to ensure compliance with statutory/regulatory and permit requirements of scrap tire carriers. The financial assurance mechanisms must be either performance bonds or letters of credit.



d. **Manifest** means a form or document used for identifying the quantity and composition and the origin, routing, and destination of scrap tires during transportation from the point of generation through any intermediate points to an end user, scrap tire processor, sorter, or disposal facility approved by the Environmental Protection Division of the Georgia Department of Natural Resources (“EPD”).

e. **New Replacement Tires** include, but are not limited to, tires for automobiles, trucks, heavy equipment, motorbikes, boats and other trailers, aircraft, and recreational vehicles.

f. **Recycled** means any process by which materials that would otherwise become solid waste are collected, separated, or processed to be reused or returned to use in the form of raw materials or products.

g. **Retail Tire Dealer** means a person or business entity actively engaged in the business of selling new and/or used tires and may also be, but is not limited to, manufacturers, wholesalers, and others who sell new and/or used tires to the ultimate consumer.

h. **Retreadable Casing** means a tire that retains such quality and soundness of the tire structure that it can accept a retread or repair and provide additional service, and that is destined for retreading. It is a rebuttable presumption that non-new tires are scrap tires and not retreadable casings.

i. **Scrap Tire** means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

j. **Scrap Tire Carrier** means any person or business entity that is engaged in picking up or transporting scrap and/or used tires for the purpose of removal to an end user, scrap tire processor, sorter, or disposal facility, and that is currently required under Georgia state law to obtain and possess an EPD Scrap Tire Carrier Permit.

k. **Scrap Tire Generator** means any person or business entity that generates scrap tires and that is required under Georgia state law to obtain and possess an EPD Scrap Tire Generator Permit. Scrap tire generators may include, but are not limited to, retail tire dealers, scrap tire processors, automobile dealers, private company vehicle maintenance shops, garages, and service stations.

l. **Scrap Tire Processing** means any method, system, or other treatment designed to change the physical form, size, or chemical content of scrap tires, and includes all aspects of its management (administration, personnel, land, equipment, building, and other elements). Scrap tire processing includes, but is not limited to, shredding, chopping, chipping, baling, splitting, recycling, and sorting of scrap tires.

m. **Scrap Tire Processor** means any person or business entity that receives scrap tires from scrap tire generators or scrap tire carriers for the purpose of scrap tire processing.



n. **Storage** means the act of storing tires or the state of being stored on private property.

o. **Store** means to accumulate, amass, garner, hive, lay up, or stockpile.

p. **Tire** means a continuous solid or pneumatic rubber covering designed for encircling the wheel of a motor vehicle that is neither attached to the motor vehicle nor a part of the motor vehicle as original equipment.

q. **Tire Handling Business** means any person or business entity whose income is at least partially derived from the sale, processing, transporting, or disposal of tires.

r. **Tire Retreader** means any person or business entity actively engaged in the business of retreading scrap tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire.

s. **Ultimate Consumer** means the last person who receives and uses a new or used replacement tire. Ultimate consumers may be, but are not limited to:

- (1) Individuals;
- (2) Leasing companies purchasing tires from retail dealers for their vehicle fleet;
- (3) Private companies purchasing tires from retail dealers for their vehicle fleet; or
- (4) Governmental agencies.

t. **Used Tire** means a tire that has a minimum of 2/32 inches of road tread and that is still suitable for its original purpose. It must be inventoried and marked in substantiality the same fashion as a new tire. It is a rebuttable presumption that non-new tires are scrap tires and not used tires.

Section 130-32. Dumping of Scrap Tires.

It is unlawful to cause, suffer, or allow the dumping of scrap tires within the City of Atlanta including, and without limitations, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right of way thereof, or on any other public or private property unless:

- a. The person or business entity carrying out the disposal is an EPD approved scrap tire processor or disposal facility with a valid Scrap Tire Processor Permit and/or a valid Solid Waste Handling Permit or other applicable identification number, and the disposal is carried out on the property of the scrap tire processor; or
- b. The activity constitutes storage as defined in this Article and is conducted in a manner consistent with the provisions of Section 130-32(c) of this Article.



Section 130-33. Scrap Tire Management.

This Section is intended to apply to all persons presently engaged in or proposing to be engaged in the retail sale of new tires, used tires, and/or handling of scrap tires.

a. Scrap Tire Generator Enforcement

- (1) Scrap tire generators shall have the necessary licenses and specifications as required by Georgia state law.
- (2) Scrap tire generators shall maintain, pursuant to Georgia state law, accurate records and reports detailing the number of new and/or used replacement tires sold and the amount of fees collected, as well as receipts indicating the disposition of scrap tires. These records shall be maintained on file at the facility in question for three (3) years and shall be made available for inspection by the City of Atlanta during normal business hours.
- (3) Scrap tire generators shall, pursuant to Georgia state law, initiate a manifest to transport scrap tires from the point of generation to an EPD approved end user, scrap tire processor, sorter, or disposal facility. The manifest shall include the following information:
 - a. Name and Identification Number of the scrap tire generator;
 - b. Number of scrap tires or total tons [accurate to within ten (10) percent of actual number] of scrap tires to be transported;
 - c. Name and Permit Number of the scrap tire carrier;
 - d. Date of transport; and
 - e. Destination of scrap tires.
- (4) Scrap tire generators shall ensure that all scrap tires are transported to an EPD approved end user, scrap tire processor, sorter, or disposal facility, as evidenced by a completed manifest.
- (5) Unless otherwise approved in writing by the EPD, scrap tire generators shall ensure that any person collecting and transporting their scrap tires holds a valid Scrap Tire Carrier Permit issued by the EPD. However a person or business entity that generates less than 100 tires per month and that transports only its own scrap tires to EPD approved end users, scrap tire processors, sorters, or disposal facilities is not required to have a Scrap



Tire Carrier Permit, but must comply with all other provisions required of scrap tire generators and scrap tire carriers.

- (6) Scrap tire generators shall maintain copies of completed manifest records for three (3) years. Such documentation shall be made available for inspection by the City of Atlanta during normal business hours.
- (7) Scrap tire generators may choose to determine whether a tire, because of wear, damage or defect, is not suitable for classification as a used tire or retreadable casing as defined in this Article. However, if a scrap tire generator fails to sort or delineate which tires are used tires, retreadable casings, or scrap tires, then all tires transported shall be considered scrap tires and must be thusly indicated on the shipment manifest. It is a rebuttable presumption that non-new tires are scrap tires.
- (8) Scrap tire generators shall mark scrap tires with their EPD issued Scrap Tire Generator Number within twenty-four (24) hours of receipt of the scrap tires. Each scrap tire shall be marked on the outside of the tire in a manner sufficient to provide notice of ownership. Said marking shall be at least one (1) inch in height and shall be permanent and waterproof.
- (9) The Atlanta Police Department and/or its designee shall coordinate to conduct annual random inspections of all scrap tire generators in the City of Atlanta to ensure compliance with this Article.

b. Scrap Tire Carrier Enforcement

- (1) Scrap tire carriers shall transport used and scrap tires, properly manifested, only to EPD approved end users, scrap tire processors, sorters, or disposal facilities.
- (2) No Scrap Tire Carrier Permit is required to transport used tires when the tires are transported by a Retail Tire Dealer who is the owner of the tires and can provide proof of ownership in the form of a manifest or receipt. The manifest or receipt for the used tires must include: The number of tires, the purchase price, the date of purchase, and the name and address of the seller of the tires.
- (3) The City of Atlanta may inspect scrap tire carriers to determine if they have been issued a Scrap Tire Carrier Permit by EPD and are in compliance with the requirements for scrap tire carriers prescribed in this Article.



- (4) Scrap tire carriers shall produce to the City of Atlanta upon demand a valid Scrap Tire Carrier Permit issued by the EPD and a manifest indicating that the scrap tires have been properly manifested and are being transported, or have been delivered, to an EPD approved end user, scrap tire processor, sorter, or disposal facility.
- (5) Scrap tire carriers shall maintain financial assurance in the form of a performance bond or letter of credit. The financial assurance shall be maintained according to the following criteria:
 - a. \$5,000.00 for scrap tire carriers transporting up to 500 scrap tires per month.
 - b. \$10,000.00 for scrap tire carriers transporting more than 500 scrap tires per month.
- (6) The City of Atlanta shall review documentation maintained by scrap tire carriers to ensure that the quarterly reports required by the EPD include the number of scrap tires transported and the manner of scrap tire disposition.
- (7) The City of Atlanta shall review scrap tire carrier records to determine if the scrap tire carriers have returned a completed copy of the manifest to the scrap tire generators, which shall be indicated on the manifest.

c. Scrap Tire Storage Enforcement

- (1) It is unlawful for any person or business entity, other than a Scrap tire Generator as defined in this Article or a Tire Retreader as defined in this Article, to allow more than 25 scrap tires to be stored on its premises. A scrap tire generator may store a maximum of 500 scrap tires on its premises and a tire retreader may store a maximum of 3,000 tires on its premises. Storing any quantity of scrap tires in excess of this storage rule constitutes a violation of this Article.
- (2) It is unlawful for any person or business entity, including Scrap tire generators, to store scrap tires outside of an enclosed building except in a single secured, covered, and locked container. This storage rule will not apply to the following:
 - a. Solid waste disposal sites permitted by the EPD if the permit authorizes the storage of scrap tires prior to their disposal;
 - b. Tire retreaders with not more than 3,000 scrap tires in storage; and



- c. Scrap tire processors approved by the EPD.
- (3) Where scrap tires are stored inside of an enclosed building, said building must be maintained and operated in a manner reasonably sufficient to prevent theft or the potential for scrap tires to be removed from the facility and improperly disposed of.

Section 130-34. Authority.

The primary authority and responsibility for the enforcement of the provisions of this Article is vested in the Atlanta Police Department and/or its designees.

- a. Investigations

Authorized agents from the City of Atlanta shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Article. This is including but not limited to the power to enter upon any property public or private at reasonable times, for the purpose of investigation and inspecting facilities conducting scrap tire generation, storage, transportation, or disposal activities. The City's authorized agent, upon presentation of proper identification to the owner, agent, or tenant in charge is authorized to enter any such premises during the hours of operation.

- b. Right of Entry

No person shall refuse entry or access to any authorized representative or agent who requests entry for the purpose of inspection and who presents appropriate identification, nor shall any person obstruct, hamper or interfere with any such representative while in the process or carrying out his/her official duties.

Section 130-35. Violations.

Any person found in violation of any provision of this Article may be issued a citation by the City of Atlanta and may be prosecuted and punished as provided by law for the violation of an Ordinance. It is also a violation of this Ordinance for any person to violate state law and regulations regarding scrap tire management as prescribed in the provisions of O.C.G.A. § 12-8-20, et seq. and Georgia Rules and Regulations Chapter 391-3-4.

Section 130-36. Penalties.

- a. Assessment of Penalties

For the purpose of enforcing the provisions of this Article, the City of Atlanta Municipal Court or any other court of competent jurisdiction trying cases brought



as violations of the provisions of this article, is authorized to impose a fine not to exceed \$1,000.00, imprisonment for a term not exceeding six months, work on the public streets or on public works of the city for not more than six months, or any combination thereof as set out at Section 1-8 of the Atlanta City Code. With respect to violations of this Code that are continuous with respect to time, each calendar day the violation exists is considered a separate offense.

The penalty provisions set out immediately above shall take precedence over the penalty provisions set out at Section 130-12 of this Chapter which shall not apply to the provisions contained herein in Article II of Chapter 130 (the "City of Atlanta Scrap Tire Enforcement Ordinance").

b. Impoundment of Vehicles

A motor vehicle that is used in any violation of this Article is subject to seizure and impoundment under this subsection. The owner of record of such vehicle shall be liable to the city for an administrative penalty equal to the total cost incurred by the city for the towing and storage of the vehicle and in addition to any other penalties imposed under this section.

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the city or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of seizure and of the vehicle owner's right to request a preliminary hearing.

c. Recovery of Costs

In addition to the other penalties provided in this section, any person found in violation of this Article shall be liable to the city for the total amount of all costs and expenses incurred by the city in abating any violation of this Article.

Section 3: The remaining sections 130-13 through 130-27 of Article I of Chapter 130, titled "In General" continue to be reserved.

Section 4: The present Article II of Chapter 130, titled "Municipal Collection and Disposal System" is hereby renumbered as Article III.

Section 5: This Ordinance shall take effect on April 1, 2013.

Section 6. All ordinances in conflict with this ordinance are hereby waived to the extent of the conflict.

RCS# 2472
12/03/12
4:20 PM

Atlanta City Council

12-O-0357

REPEAL 02-O-0342; PROCEDURES FOR SCRAP
TIRES TO REVISE PROCEDURES
ADOPT AS AMNDED

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
Y Hall	Y Wan	Y Martin	Y Watson
B Young	Y Shook	Y Bottoms	Y Willis
NV Winslow	Y Adrean	Y Sheperd	NV Mitchell

12-O-0357