ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 15, CODE OF ORDINANCES, CITY OF MEMPHIS, TO INCLUDE REGULATIONS FOR THE PROPER DISPOSAL OF TIRES AND THE REGISTRATION OF CERTAIN TIRE BUSINESSES AND TIRE HAULERS WITHIN THE CITY OF MEMPHIS

WHEREAS, the City administration has determined that tires are being improperly disposed of throughout the City of Memphis; and

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

WHEREAS, the improper disposal of waste tires found throughout various areas of the city of Memphis is a major fiscal and waste management problem to the City; 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 Memphis 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

WHEREAS, the City Administration and Council of the City of Memphis have determined it to be in the best interest of the citizens of Memphis 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 City Administration and Council of the City of Memphis deem it necessary to also require the permitting and registration of waste tire haulers engaged for the purpose of transporting used or waste tires to tire recycling or disposal facilities; and

WHEREAS, the City and Shelby County Government shall agree to establish a Redemption Program for the purpose of compensating citizens presenting an illegally disposed used or waste tire to an authorized tire disposal or recycling facility for redemptive value; and

WHEREAS, the City and County shall each agree to contribute fifty-thousand dollars ($50,000) to fund such Redemption Program.

NOW THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 15, Article III, Code of Ordinances, City of Memphis, be included to read as follows:

CHAPTER 15, ARTICLE III
TIRE BUSINESS AND TIRE HAULER REGISTRATION

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 Article is to institute and maintain a comprehensive city-wide program for tire disposal 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 public and does not degrade the quality of the environment.

Sec. 15-47. 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. *"Manifest"* shall mean 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.

C. *"Person"* shall mean any and all persons, natural or artificial, including any individual, firm or association.

D. *"Tire"* shall mean a continuous solid or pneumatic rubber covering encircling the wheel of a bicycle, motorcycle, automobile, truck, trailer, tractor or other vehicle.

E. *"Tire Business"* shall mean and include 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.

F. *"Tire Recycling Facility"* shall mean a Shelby County facility, mandated and licensed pursuant to the Tennessee Solid Waste management Act, which recycles or properly disposes tires.

G. *"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 include any tire that is destined for a tire disposer or reprocessor (i.e., recapper).

H. *"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.

I. *"Waste tire disposer"* shall mean any person who is approved by the Tennessee 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.

J. *"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, automobile dealers, private company vehicle maintenance shops, garages, service stations, and city, county, and state governments.

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 of Memphis, by and through its Permits Office 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 for any additional truck utilized by the tire business to transport waste tires at a cost of $15 per decal. The City will 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 Memphis 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 tax payer identification number;
3. Proof of current Shelby County Business License, issued to the applicant at the proposed business address;
4. Shelby 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 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 insurance required in accordance with the Tennessee Financial Responsibility laws.
10. 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 1st, of each calendar year at the City of Memphis 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 Fifteen dollars ($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 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 without approval by the City Office of Permits 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 first until the next ensuing thirtieth day of June, 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 of Memphis, by and through its Permits Office 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 Memphis 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 tax payer identification number (if applicable);
3. Proof of current Shelby County Business License, issued to the applicant at the proposed business address;
4. Proof of insurance required in accordance with the Tennessee 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 1st, of each calendar year at the City of Memphis Permits Office. These annual fees shall be paid in advance of the issuance of such permit, 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 Fifteen dollars ($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 Article, and has demonstrated compliance with this Article 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 without approval by the City Office of Permits 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 first until the next ensuing thirtieth day of June, 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
2. A private individual transporting the individual's own waste tires to an approved tire disposal or tire recycling facility.

Sec. 15-50. Denial of permit or renewal; suspension or revocation of permit. In addition to the penalties set forth in Sec.15-57, the Permits Office may refuse to issue or renew a tire business or tire hauler permit or may suspend or revoke such permit if:

1. 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; or

2. There are repeated or a serious violation(s) of any city ordinance by the tire business or tire hauler; or

3. The tire business or tire hauler fails to comply with any provisions of this Article and/or any other applicable city ordinance(s); or

4. The tire business or tire hauler fails to comply with any applicable state or federal law, rule or regulation;

5. The tire business knowingly authorizes a tire hauler who is not properly permitted as required in Section 15-49 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. Each tire business shall have six (6) months 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 in accordance with Section 15-50 set forth above.

Sec. 15-52. Storage of Tires.

Tire Businesses shall properly store tires at each facility in accordance with local, state and federal law. To eliminate potential nuisances of litter, insect breeding, fire hazards and other health risks, each tire business shall at all times during storage:

1. 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;
2. Secure tires at each facility to prevent easy access or theft. Lock, chain, or store inside a building or other securable structure;
3. Accumulate tires in piles in accordance with the City's fire prevention code;
4. 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.
5. Store no more than 100 tires in each bay or 100 tires per 1,500 square feet of inside storage space.

Sec. 15-53. 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 Memphis 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 allow the disposal of whole tires in a landfill.

(c) Tires shall be properly disposed of in accordance with Section 15-54 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(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. 15-54. Disposal Records/Transmittal Manifest

A. Tire Businesses shall keep disposal records in the form of a transmittal manifest, as prescribed by the City, 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 the following:

1. Name, address, telephone number, permit number and authorized signature of the tire hauler; and
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; 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 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 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. The tire business shall maintain a copy of the manifest evidencing all information and signatures required herein.

Sec. 15-55. Redemption Program.

A. For the purpose of assisting with the proper disposal of waste or scrap tires, any person, 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 fifty cents (.50)

per tire, notwithstanding the absence of the required tire marking included on such tires. 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 Office of Permits is hereby authorized to make payment to the affiant after five (5) calendar days and shall properly record and retain documentation reflecting such payment for a period of twelve (12) months. Any person presenting a used or waste tire for redemption shall present valid Tennessee identification. Information regarding the location of authorized tire disposal and tire recycling facilities shall be made available through the Office of Permits.

B. The Redemption Program established herein shall commence immediately upon the effective adoption of this ordinance and shall expire within twelve (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 (2) years.

Sec. 15-56. Administration/Enforcement.

A. Administration and enforcement of this Article shall be the responsibility of the City of Memphis Permits Office, Memphis 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 ordinance, at reasonable or necessary times in order to properly inspect for violations.

B. The Office of Permits is hereby authorized to promulgate all such rules and regulations considered necessary and proper to effectuate the implementation and enforcement of this Ordinance.

Sec. 15-57. Violations and Penalties. In addition to the penalties set forth in Sec. 15-50, 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 $50 for each offense as determined by a division of the City Court. Each day of continued violation shall constitute a separate offense.

(a) 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) 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 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.

(c) The improper dumping of a tire shall constitute a separate offense per tire and be punishable by a fine of fifty dollars ($50) for each tire found improperly dumped that is related back to a specific tire business. Each day of continued violation of this subsection constitutes a separate offense.

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(s) of this Article.

Sec. 15-59. Tire Disposal Fund. All funds received by the City pursuant to this article shall solely be used to pay for the administrative and operational costs resulting from the enforcement and implementation of this Ordinance. The City shall also contribute $50,000 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.

Secs. 15-60. – 15-65. Reserved.

SECTION 2. BE IT FURTHER ORDAINED, That 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. BE IT FURTHER ORDAINED, That 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 the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Harold Collins,
Chairman of the Council

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Attest
Patrice Thomas, Comptroller

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