

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2019-49

AN ORDINANCE TO AMEND THE CODE OF CLAYTON COUNTY, GEORGIA, AS AMENDED, SPECIFICALLY, CODE OF CLAYTON COUNTY, GEORGIA, PART II, CHAPTER 62 "OFFENSES AND MISCELLANEOUS PROVISIONS", BY ADDING A NEW ARTICLE III "SCRAP TIRE ENFORCEMENT", AND CODE SECTIONS THEREUNDER; TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE CLAYTON COUNTY BOARD OF COMMISSIONERS AND IT IS HEREBY ORDAINED

**Section 1.** The Code of Clayton County, Georgia, as amended, is hereby further amended by amending Part II, Chapter 62 "Offenses and Miscellaneous Provisions" to add a new Article III "Scrap Tire Enforcement" and code sections thereunder numbered as Section 62-300 et seq., to read as follows:

*Chapter 62 – OFFENSES AND MISCELLANEOUS PROVISIONS*

*ARTICLE III. - SCRAP TIRE ENFORCEMENT*

*Sec. 62-300. - Title.*

*This article shall be known as the "Clayton County Scrap Tire Enforcement Ordinance."*

*Sec. 62-301. - Intent and purpose.*

*The board of commissioners finds that protection of the environment is vital to the health, welfare and economic progress of Clayton County and its citizens. Therefore, it is*

*the intent of this article 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.*

*Sec. 62-302. - 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 2 (O.C.G.A. § 12-8-20, et seq.) and specifically O.C.G.A. § 12-8-40.1 "Tire disposal restrictions; fees" are hereby incorporated by reference into this article and made a part of this Code. In addition, Rules for Solid Waste Management, Georgia Rules and Regulations Chapter 391-3-4 and specifically Rule 391-3-4.19 "Scrap and Used Tire Management" are hereby incorporated by reference into this article and made a part of this Code.*

*Sec. 62-303. - 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) EPD means the Environmental Protection Division of the Georgia Department of Natural Resources.*

*(d) 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.*

(e) *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 EPD.*

(f) *New replacement tires include, but are not limited to, tires for automobiles, trucks, heavy equipment, motorbikes, boats and other trailers, aircraft, and recreational vehicles.*

(g) *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.*

(h) *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.*

(i) *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.*

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

(k) *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.*

*(l) 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.*

*(m) 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.*

*(n) 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.*

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

*(p) Store means to accumulate, amass, garner, hive, layup, or stockpile.*

*(q) 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.*

*(r) 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.*

(s) *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.*

(t) *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.*

(u) *Used tire means a tire which has a minimum of 2/32 -inch of road tread and which is still suitable for its original purpose but is no longer new. A tire retailer shall inventory and market used tires in substantially the same fashion as a new tire and be; able to provide satisfactory evidence to the EPD that a market for the tire exists and the tire is in fact being marketed as a used tire. A used tire shall not be considered solid waste.*

*Sec. 62-304. - Dumping of scrap tires.*

*It is unlawful to cause, suffer, or allow the dumping of scrap tires within Clayton County 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 62-305(c) of this article.*

*Sec. 62-305. - 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 years and shall be made available for inspection by the Clayton County Police/Code Enforcement 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 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 years. Such documentation shall be made available for inspection by the Clayton County Police/Code Enforcement 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 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 inch in height and shall be permanent and waterproof.*

*(9) The Clayton County Police Department and/or its designee shall coordinate to conduct annual random inspections of all scrap tire generators in unincorporated Clayton County 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 and no decal to be displayed on any vehicle transporting tires is required to transport used tires when the tires are transported:*

*a. By a common carrier that collects tires exclusively from outside the State of Georgia and transports them directly to a scrap tire processor or end user within the State of Georgia;*

- b. *By a municipal solid waste collector holding a valid solid waste collection permit issued by the EPD whose primary business is the collection of municipal solid waste;*
  - c. *By a private individual transporting no more than ten of the individual's own tires or a private individual transporting more than ten tires if such individual can provide proof of purchase with receipt for such tires;*
  - d. *By a company transporting the company's own tires to a scrap tire processor or end user or for proper disposal;*
  - e. *By a tire retailer transporting its own used tires if such dealer can provide proof of purchase with receipt for all used tires being transported and a document verifying the origin, route, and destination of such used tires;*
  - f. *By any person transporting tires collected as part of an organized site cleanup activity; and*
  - g. *By the United States, the State of Georgia, any Georgia county, municipality, or public authority.*
- (3) *Clayton County Police/Code Enforcement 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 Clayton County Police/Code Enforcement 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 and scrap tire processors shall maintain financial assurance in the form of a surety bond in compliance with requirements imposed by the EPD pursuant to O.C.G.A. Section 12-8-40.1(l)(1).*

*(6) Clayton County Police 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) Clayton County Police/Code Enforcement 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) No person may store more than 25 scrap tires anywhere in Unincorporated Clayton County. Any person storing in excess of 25 scrap tires shall be deemed to be in violation of this Article. This section, however, shall not apply to any of the following:*

*a. A permitted solid waste disposal site if the permit authorizes the storage of scrap tires prior to their disposal;*

*b. A tire retailer or a publicly owned vehicle maintenance facility with not more than 1,500 scrap tires in storage;*

*c. A tire retreader with not more than 3,000 scrap tires in storage as long as the scrap tires are of the type the retreader is actively retreading;*

- d. *A licensed used motor vehicle parts dealer, a registered secondary metals recycler, or a privately owned vehicle maintenance facility that operates solely for the purpose of servicing a commercial vehicle fleet with not more than 500 scrap tires in storage; and*
  - e. *A Georgia EPD approved scrap tire processor so long as the number of scrap tires in storage do not exceed the quantity approved by the EPD if all of the scrap tires are secured in a locked enclosure or are otherwise adequately secured in a manner suitable to prevent unauthorized access. This requirement may be waived by the EPD in cases of significant and unique economic hardship which impairs a person's ability to continue operating his or her business.*
- (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.*
- (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.*
- a. *Investigations. Any person authorized by Section 62-307 to enforce this article shall have the power to conduct such investigations as it may reasonably deem necessary to carry out the 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 County'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.*

*Sec. 62-306. – Violations of state law*

*It is also a violation of this article 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.*

*Sec. 62-307 – Enforcement and penalties.*

*(a) The primary authority and responsibility for the enforcement of the provisions of this article is vested in the Clayton County Police Department. In addition, the provisions of this article may be enforced by the sheriff and deputy sheriffs, and any employee of the department of community development authorized by the director to enforce this article.*

*(b) Any county police officer, sheriff or deputy sheriff, code enforcement officer of the police department or any inspector or other employee*

*designated by the director of the department of community development to enforce this article, who has probable cause to believe a violation of this article has occurred, may issue a summons to the suspected violator or to the business licensee where the violation occurred, or both, to appear in the magistrate court of Clayton County to answer and upon conviction may be punished as provided in section 1-12 of this Code.*

*Sec. 62-308. – Impoundment of vehicles.*

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

*Sec. 62-309. – Recovery of costs.*

*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 county for the total amount of all costs and expenses incurred by the County in abating any violation of this article.*

**Section 2.** All laws, ordinances and resolutions, or parts thereof, which conflict with the provisions of this Ordinance are hereby repealed.

**Section 3.** If any part of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remainder of this enactment, and such remainder shall remain in full force and effect.

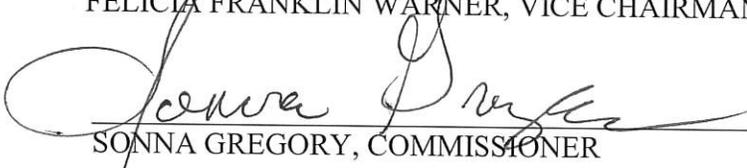
**Section 4.** This Ordinance shall become effective upon its approval by the Board of Commissioners.

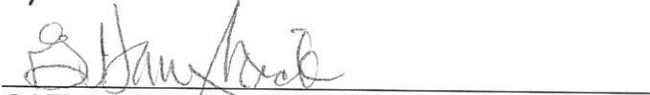
SO ORDAINED, this the 7 day of May, 2019.

**CLAYTON COUNTY BOARD OF COMMISSIONERS**

  
JEFFREY E. TURNER, CHAIRMAN

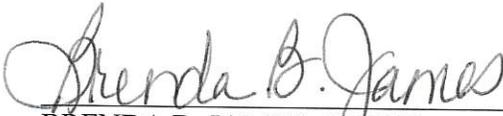
  
FELICIA FRANKLIN WARNER, VICE CHAIRMAN

  
SONNA GREGORY, COMMISSIONER

  
GAIL HAMBRICK, COMMISSIONER

  
DEMONT DAVIS, COMMISSIONER

ATTEST:

  
BRENDA B. JAMES, CLERK