

FANNIN COUNTY SCRAP TIRE MANAGEMENT ORDINANCE

An ordinance defining the proper disposal of scrap tires from generation to end-use. Requirements for storage, handling, accumulation, transportation and disposal, prescribing penalties for violations of said Ordinance, and other purposes related thereto.

ENACTMENT CLAUSE

It is declared TO BE THE POLICY OF Fannin County, in furtherance of its responsibility to protect the public health, safety, and well being of its citizens and to protect and enhance the quality of its environment, to revise and update existing laws, and to institute and maintain a comprehensive county-wide program for all scrap tire management which will assure that the storage, transportation, collection, processing and disposal of scrap tires does not adversely affect the health, safety, and well-being of the public and does not degrade the quality of the environment.

SECTION I – DEFINITIONS

- A. The term “*dump*” means to throw, discard, place, deposit, discharge, bury, burn, or dispose of a substance.¹
- B. The term “*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 and intermediate points, to an end user, processor or disposer approved by the Georgia Environmental Protection Division (EPD).²
- C. The term “*person*” means the State of Georgia or any other state or agency or institution thereof, and any municipality, county, political subdivision, public or private corporation, solid waste authority, special district empowered to engage in solid waste management activities, individual, partnership, association, or other entity in Georgia or any other state. This term also includes any officer or governing or managing body of any municipality, political subdivision, solid waste authority, special district empowered to engage in solid waste activities, or public or private corporation in Georgia or any other state. This term also includes employees, departments, and agencies of the federal government.³

¹ – As defined in O.C.G.A. 16-7-51

² – As defined in Section 391-3-4-.19 (2) of the Georgia Rules for Solid Waste Management

³ – As defined in Section 391-3-4-.01 of the Georgia Rules for Solid Waste Management

- D. The term “*retail tire dealer*” means a person actively engaged in the business of selling new replacement tires.¹
- E. The term “*scrap tire*” means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.¹
- F. The “term “*scrap tire carrier*” means any person engaged in picking up or transporting scrap tires not otherwise exempted in the Georgia Rules for Solid Waste Management for the purpose of removal to a scrap tire processor, end user, or disposal facility.¹
- G. The term “*scrap tire generator*” means any person who generates scrap tires. Generators may include, but are not limited to, retail tire dealers, retreaders, scrap tire processors, automobile dealers, private company vehicle maintenance shops, garages, service stations, and city, county, and state governments.¹
- H. The term “*scrap tire processor*” means any person who is approved by the Environmental Protection Division to receive scrap tires from scrap tire generators or scrap tire carriers for the purpose of scrap tire processing.¹
- I. The term “*scrap tire sorter*” means any person, other than the original scrap tire generator, who handles mixed tires by separating used tires and retreadable casings from scrap tires.¹

¹– As defined in Section 391-3-4-.19(2) of the Georgia Rules for Solid Waste Management

SECTION II – SCRAP TIRE MANAGEMENT – GENERAL

- A. The owner or occupant of any premises shall be responsible for the sanitary handling and disposal of all scrap tires on the premises used or occupied by such person.
- B. It shall be unlawful to cause, suffer or allow the dumping of scrap tires at any place in Fannin County including, and without limitations, in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right of way there of, any public or private property in the County or any waters in Fannin County unless such scrap tires originate in Fannin County or other areas authorized by the Fannin County Board of Commissioners **AND:**
 1. The property is designated by the Board of Commissioners or its duly designated agent and the Georgia Environmental Protection Division for the collection or disposal of scrap tires and the person is authorized to use such property;
 2. The scrap tires are placed into a receptacle or container installed specifically for such property; **AND**

3. The property has a valid solid waste handling permit or other applicable identification numbers, approvals and/or permits issued by the Georgia Environmental Protection Division (EPD) when required.
- C. All persons defined as scrap tire generators, scrap tire carriers, scrap tire processors, including scrap tire sorters, and retail tire dealers shall be subject to rules as defined in Chapter 391-3-4, et seq. of the Georgia Rules for Solid Waste Management and handle scrap tires in accordance with the provisions of O.C.G.A. 12-8-20, et seq. and the Georgia Rules for Solid Waste Management, Chapter 391-3-4 et seq. applicable to solid waste, except where requirements of this ordinance are more stringent.

SECTION III – ACCUMULATION

- A. It shall be unlawful for any person in a residential zone to accumulate any amount of scrap tires on or around property, which they own or occupy.
- B. A retail tire dealer may hold up to 100 scrap tires per garage bay in storage, up to a maximum of 1000 scrap tires.
- C. Tires must be stored in covered or enclosed areas to prevent the accumulation of water.

SECTION IV – VIOLATIONS AND PENALTIES

- A. Any person(s), firm, or corporation violating any portion of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, in the Magistrate Court of Fannin County, shall be punished as follows:
 1. For the first offense: By a fine of not less than \$100.00 and not more than \$1,000.00¹, or up to 30 days imprisonment, or both. Each day the violation continues shall constitute a separate offense. However, this section shall not preclude the County from choosing to seek civil redress in a court of competent jurisdiction in addition to the criminal prosecution, it being the intent of the County to have both the civil and criminal rights of prosecution in this area;
 2. For the second or more offense(s): The violator shall be guilty of a misdemeanor of high and aggravated nature punishable by a fine of not less than \$700.00 and not more than \$1,000.00, or up to 60 days imprisonment, or both. Each day the violation continues shall constitute a separate offense; and/or

¹- As provided in O.C.G.A. section 16-7-43 (b.1)

- B.** The Court may order the publication of the names and photographs of persons convicted of violating this ordinance; and/or
- C.** The Court may order the person to repair or restore property damaged, or pay damages resulting from such violations, or perform public service related to the repair or restoration of property damaged by the violation ¹; and/or
- D.** In case of a tire dump, the property owner, contractor, developer, builder or other person responsible for the property shall cause the property to be cleaned and to come into full compliance with this ordinance. Fannin County shall not be responsible for any costs of cleanup or remediation; and/or
- E.** The expenses incurred by the County for cleanup, enforcement of violations and penalties shall be chargeable to the violator, including, but not limited to: Court costs, filing fees, special investigations, mutual aid assistance from other agencies and other costs necessary for the reasonable enforcement of this ordinance.
- F.** In addition to actions filed by Fannin County for violations of this ordinance. Any State or Federal agency may independently file separate or concurrent charges within their respective applicable authority and seek conviction within a Court of competent jurisdiction.

¹ – As provided in O.C.G.A. section 16-7-53 (d)

SECTION V – ENFORCEMENT

- A.** Enforcement of this ordinance shall be the responsibility of the Fannin County Board of Commissioners, the Environmental Education and Enforcement Officer or his/her designee, and/or the Fannin County Marshal's Office and/or the Fannin County Sheriff's Office.
- B.** Any person(s) authorized to enforce this ordinance shall be empowered to enter any property, upon reasonable cause, at reasonable or necessary times in order to properly inspect for violations of this ordinance, subject to the condition that to allow entry onto private property for inspection, the alleged violation of this ordinance must be visible from a public road or right of way, or upon said person(s) having received a valid complaint alleging a violation of this ordinance, or by a Judge's Order upon said person(s) having received information/allegations that constitute reasonable suspicion that a serious unlawful act or threat to the health and safety of the community and/or the environment has occurred or is about to occur.

- C. Appeals for the violation of this ordinance may be made to the Magistrate Court of Fannin County, or higher Court if the person so chooses. The person always has the right to consult his/her attorney at any time before the hearing is scheduled for Court.

SECTION VI – CIVIL REMEDIES AND ABATEMENT OF NUISANCE

- A. In the event that any person violates any provision of this ordinance, the County or other appropriate authority may, in addition to other remedies, institute any action for injunction, cleanup or stop work orders, mandamus, irreversible damage fines, lien on property or other appropriate action or proceeding to prevent such unlawful acts or to correct or abate any such violation¹. In addition, the County may immediately revoke or suspend any and all business, building, development or any and all other County issued permits related to the property or properties involved with the violation until such time that compliance is met, or until the ruling of a Court of competent jurisdiction is obtained, at which time respective permits may be reissued.
- B. Upon finding evidence, a written Notice of Violation may be issued at the discretion of the enforcing officer(s) in lieu of a citation. In the absence of corrective action or in the event that a second violation occurs, the evidence constituting the Notice of Violation may be submitted as evidence for consideration as a first offense before a Court with competent jurisdiction and the pending case treated as a second offense by the Court as defined in Paragraph (a)(2) of Section IV of this Ordinance.
- C. If a person is found guilty of a violation of the Provisions of this ordinance, the Court and/or the Board of Commissioners may cause written notice to be given, or incorporate into the Court Order to the violator instruction that person to properly address any provision still remaining in violation of this ordinance for which said violator is convicted. Such notice shall be by personal service and in the event the violator cannot be so served, then by registered mail sent to the violator's last known address.
- D. Upon failure, neglect or refusal of any person so notified to properly address said provisions within 20 days after receipt of notice as provided in this Section, the Board of Commissioners is hereby authorized and empowered to cause the cleanup, removal or disposal of scrap tires, dumped, deposited, thrown, or left on public or private property in violation of the ordinance on behalf of the County. The expenses incurred by the County shall be chargeable to the violator and the Board of Commissioners and/or the Court shall send a statement of the Amount due for said expenses by registered mail.

¹ – As provided in O.C.G.A. sections 16-7-52,16-7-53

- E.** When the full amount of such charges are not paid by the violator within 30 days after receipt of said statement as provided for in this Section, the Board of Commissioners shall cause to be recorded in the Execution Docket a sworn statement showing the cost and expense incurred by the County, the dates of County action, the location of the property for which action was taken, and the name of the person to be charged for the expenses incurred. The recordation of such statement shall constitute a lien on the personal and real property of the person to be charged and shall remain in full force and effect until final payment is received in full, including accrued interest from the date of recording and any and all costs. Such amount as shall constitute final payment shall be subject to collection in the manner fixed by law for the collection of taxes.
- F.** This Section VI shall apply with full force and effect regardless of the provisions of any order of the Court in which the violator was convicted. This section should not be construed as an excuse for failure on the part of the violator to perform any cleanup ordered by the Court, nor shall it be considered as a mitigating factor in any contempt action against a violator who has failed to obey the order of the Court.

SECTION VII – SEVERABILITY

- A.** Should any sentence, section, subsection or provision of this Ordinance or application of a provision of this Ordinance be declared invalid or unconstitutional by any Court or other competent jurisdiction, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

SECTION VIII – REPEAL OF CONFLICTING RESOLUTIONS OR ORDINANCES

- A.** Therefore, be it ordained that all conflicting resolutions, ordinances or parts or sections of resolutions or ordinances in conflict with this Ordinance are hereby repealed.
- B.** Be it further ordained that this Ordinance shall take effect on the first day of the month after passage by the Fannin County Board of Commissioners, and shall be enforced from and after such date, the public health and welfare demanding it.

So adopted and approved by the Board of Commissioners of Fannin County, Georgia,
this 26th day of August, 2003.

Amendment to the Litter Control and Solid Waste Ordinance Section V (7).

Fannin County Board of Commissioners

Richard C. Vollrath, M.D.
Chairman

Randy Collins
Post One Commissioner

Steve Morris
Post Two Commissioner

Attest:

Diane Thomas
County Clerk