

ORDINANCE NO. 28

AN ORDINANCE AMENDING ORDINANCE No. 3, ORDINANCE No. 11, AND ORDINANCE No. 12, IN ORDER TO LIMIT THE STORAGE PERIOD OF SCRAP TIRES, ACCOUNT FOR RETREADABLE TIRES TRANSPORTED OUTSIDE OF THE METROPOLITAN SERVICE DISTRICT, MODIFY THE PENAL BOND SECTIONS, INCREASE THE NUMBER OF TIRES DELIVERED IN ONE LOAD TO THE PROCESSING FACILITY BY ANYONE OTHER THAN A TIRE CARRIER, AND REQUIRE GENERAL SCRAP TIRE COLLECTION RECEIPTS AND GENERAL PROCESSING CENTER RECEIPTS TO BE SUBMITTED BY THE TENTH OF THE MONTH FOLLOWING THE COLLECTION OR DISPOSAL OF TIRES; REPEALING ORDINANCE No. 17; ESTABLISHING PROCEDURES AND STANDARDS FOR EVALUATING APPLICATIONS FOR TIRE CARRIER PERMITS AND PROCESSING CENTER AUTHORIZATIONS, AND PROCEDURES FOR DENYING OR WITHDRAWING A PERMIT.

PUBLIC HEARINGS

MAY 23, 1975

JUNE 13, 1975

ADOPTED:

JUNE 13, 1975

MODIFICATIONS

Revised May 19, 1975

O R D I N A N C E NO. 28

An ordinance amending Ordinance No. 3, Ordinance No. 11, and Ordinance No. 12, in order to limit the storage period of scrap tires, account for retreadable tires transported outside of the Metropolitan Service District, modify the penal bond sections, increase the number of tires delivered in one load to the processing facility by anyone other than a tire carrier, and require general scrap tire collection receipts and general processing center receipts to be submitted by the tenth of the month following the collection or disposal of tires; repealing Ordinance No. 17; establishing procedures and standards for evaluating applications for tire carrier permits and processing center authorizations, and procedures for denying or withdrawing a permit.

NOTE: *Matter underlined is being added. Matter in parenthesis is being deleted.*

ORDINANCE NO. 28

THE METROPOLITAN SERVICE DISTRICT ORDAINS:

SECTION I: Section III of Ordinance No. 3 is amended to read:

"SECTION III. Permit Exclusion

1. Except as provided in subsection 2, no permit is required of a tire carrier who transports fewer than (10) 30 scrap tires at any one time in any one vehicle and who also transports no more than 300 scrap tires a calendar year. This exclusion does not apply to any-one hauling tires 48 inches in outside diameter or larger.
2. No permit is required of a refuse collector operating under a license or franchise from the MSD or from any city or county in the Metropolitan Service District who transports fewer than (4) 10 scrap tires at any one time in any one vehicle and who also transports no more than 100 scrap tires in any calendar year per vehicle.
3. No permit is required of:
 - a) (same)
 - b) (same)
 - c) Tire carriers engaged in the business of re-treading tires and who are carrying tires to be retreaded(.) to a retreading facility within the boundaries of the Metropolitan Service District."

SECTION II: Section V of Ordinance No. 3 is amended to read:

"SECTION V. Duties of a Tire Carrier

1. (same)
 - a) (same)
 - b) (same)
 - c) (same)

2. Tire Carriers shall obtain written authorization from MSD for the removal of scrap tires for salvage outside of the MSD boundaries.

3. A tire carrier shall not store any scrap tires for more than 30 days from the date of collection.

4. A tire carrier shall not store more than 1500 scrap tires at any time within the boundaries of the MSD.

5. A tire carrier shall obtain written authorization from MSD to transport tires out of the MSD for the purpose of retreading. Those tires intended for retreading but rejected by a retreading facility shall be disposed of in accordance with subsection 1. above."

SECTION III: Section XII of Ordinance No. 3 is amended to read:

"SECTION XII. Acceptance of Tires by Disposal Site
All disposal sites which accept or hold themselves out as accepting refuse from the general public shall accept all tires brought to them by any person other than a tire carrier operating under a permit granted pursuant to this Ordinance, so long as such person does not deliver more than (10) 30 tires to the disposal site in any one day. The operator of a disposal site may levy a unit charge per tire sufficient to cover the cost of storage and transportation to a disposal site or processing center authorized under this Ordinance to accept such tires in their then present form for on-site disposal or processing, plus any subsequent processing and disposal costs. At regular intervals, tires shall be moved to an approved processing center or be processed."

SECTION IV: Section XVII of Ordinance No. 3 is amended to read:

"SECTION XVII. Penal Bond

Every applicant for a permit under Section II shall (execute a bond in the penal sum of \$1,000.00 in favor of the Metropolitan Service District. Said bond shall be executed by the applicant as principal and by a surety company authorized to transact surety business within the State of Oregon. Such bond shall be filed with the Board in accordance with the following conditions: In the carrying out of the business of tire carriers, the principal shall comply with all the provisions of this Ordinance and such regulations issued hereunder, and that any person injured by a failure to so comply may have a right of action on said bond in his own name; provided that such action be commenced within one year after the injury; but the surety on such bond shall not be liable thereunder to any person in an amount in excess of \$1,000.00.) deliver to MSD a permit or license bond in the sum of \$1,000.00 in favor of MSD and in a satisfactory form. The bond shall be executed by the applicant as principal and by a corporate surety authorized to transact business in Oregon."

SECTION V: Section IV of Ordinance No. 11 is amended to read:

"SECTION IV. Penal Bond for Special Project Processing Center

1. Every applicant for authorization to operate a special project processing center or a tire salvage center shall (execute a bond in the penal sum of \$1,000.00 in favor of the Metropolitan Service District. Said bond shall be executed by the applicant as principal and by a surety company authorized to transact surety business within the State of Oregon. Such bond shall be filed with the Board in accordance with the following conditions: In the carrying out of the business of special project processing center or tire salvage center, as the case may be, the principal shall comply with all the provisions of this ordinance, Ordinance No. 3 as amended, Ordinance No. 4 and Ordinance

No. 12, as amended and any person injured by a failure so to comply may have a right of action on said bond in his own name; provided that such action be commenced within one year after the injury; but the surety on such bond shall not be liable thereunder to any person in an amount in excess of \$1,000.00.) deliver to MSD a permit or license bond in the sum of \$1,000.00 in favor of MSD and in a satisfactory form. The bond shall be executed by the applicant as principal and by a corporate surety authorized to transact business in Oregon."

SECTION VI: Section 1.0.0 of Exhibit A of Ordinance No. 12 is amended as follows:

1.0.0 SCRAP TIRE CARRIER PERMITS

1.1 General Scrap Tire Carrier Permits

"1.1.5 Records

The general scrap tire carrier will be issued a receipt book which will contain tickets bound in triplicate and sequentially numbered. When the general scrap tire carrier collects tires from a scrap tire generator, tire retailer or authorized public tire storage centers, a receipt ticket will be completed, reproduced in triplicate. One copy will be retained by the customer, one copy retained by the general scrap tire carrier for two years and one copy submitted to MSD (at) by the (end) tenth of (each) the month(.) following the collection. All receipts must be accounted for. At the processing center, the general scrap tire carrier will be given a receipt by the processor for the tires disposed. This receipt must be retained by the general scrap tire carrier for two years. All records pertaining to carrying scrap tires shall be made available for inspection by MSD at reasonable hours in accordance with Section XIV, Records Required, of MSD Ordinance No. 3.

1.1.6 Retreading

Scrap tire carriers may remove only those tires

from MSD which are capable of being retreaded and are being transported to a retreading facility(.) after obtaining written authorization from the MSD. Before any authorization is given, a general scrap tire carrier must advise MSD of the expected number of tires to be transported, the name, address and telephone number of the person transporting the tires, if other than the tire carrier, and the name, address and telephone number of the retreading facility expected to take the tires. Those scrap tires rejected by the retreading facility shall be disposed of in accordance with Section V. Ordinance No. 3, as amended. By the end of the month during which any written authorization is obtained, general scrap tire carrier shall provide MSD with satisfactory evidence that the tires were delivered and accepted by a retreading facility, including without limitation, the number of tires accepted, the number of tires rejected, and the name, address and telephone number of the retreading facility actually receiving the tires, if different than the facility noted in the authorization."

1.2 Individual Scrap Tire Carrier Permits

"1.2.5 Retreading

Scrap tire carriers may remove only those scrap tires from the MSD which are capable of being retreaded and are being transported to a retreading facility(.) after obtaining written authorization from the MSD. Before any authorization is given, an individual scrap tire carrier must advise MSD of the expected number of tires to be transported, the name, address and telephone number of the person transporting the tires if other than the tire carrier, and the name, address and telephone number of the retreading facility expected to take the tires. Those scrap tires rejected by the retreading facility shall be disposed of in accordance

with Section V, Ordinance No. 3, as amended. By the end of the month during which any written authorization is obtained, individual scrap tire carrier shall provide MSD with satisfactory evidence that the tires were delivered and accepted by a retreading facility, including without limitation, the number of tires accepted, the number of tires rejected, and the name, address and telephone number of the retreading facility actually receiving the tires, if different than the facility noted in the authorization."

SECTION VII: Section 2.0.0 of Exhibit A of Ordinance No. 12 is amended as follows:

2.0.0 SCRAP TIRE PROCESSING CENTERS

2.1 General Processing Centers

"2.1.5 Records

MSD shall provide to all authorized General Processing Centers receipt books of tickets bound in triplicate and sequentially numbered. The General Processing Center shall complete a receipt in triplicate for each delivery and provide one copy to the customer, retain one copy and submit one copy to MSD (at) by the (end) tenth of (each) month(.) following the receipt of tires for disposal. All receipts must be accounted for and retained by the General Processing Center for two years. The General Processing Center shall provide, on a monthly basis, an accounting by yards or tons all processed tires disposed.

All records pertaining to the processing and disposal of scrap tires shall be made available for inspection at reasonable hours in accordance with Section XIV, Records Required, of MSD Ordinance No. 3.

2.1.10 Retreading and Salvage

Tires delivered to a General Processing Center that are capable of being retreaded or salvaged may be removed from the General Processing Center and transported to (a) (retreading) the proper facility.

a. All tires transported to a retreading facility must be accounted for within the monthly summary.

b. All tires removed for the purpose of salvage must be accounted for within the monthly summary.

2.4 Tire Salvage Centers

2.4.8 Disposal of Tire Not Salvaged

The Tire Salvage Center shall deliver all tires

(inadvertently) accepted by it and not (salvageable) salvaged to a permitted general scrap tire processing center(.) within 30 days."

SECTION VIII: Ordinance 17 is repealed in it's entirety.

SECTION IX: Applications for Permits

1. Applications for a permit to act as a tire processing center, tire salvage center, or a tire carrier shall be made on forms supplied by the MSD. Applications must be complete. Incomplete applications will be returned to the applicant.
2. If the MSD does not act to grant or deny a tire carrier permit within ninety (90) days of acceptance of a complete application, the permit shall be deemed granted for the service area set out in the application unless the MSD notifies the applicant that more time is needed to review and process the application and advises the applicant how much time will be needed to complete the review. The 90 days will not begin to run until the MSD has accepted the application as complete and ready for processing. A separate application shall be filed for each individual or corporate tire carrier engaged in the business of carrying scrap tires.
3. A separate application shall be filed for each processing center or tire salvage center although one application may be filed where two or more processing machines for salvage operations are in the same location.

SECTION X: Notice of Application

1. The manager shall give notice of the receipt of an application to all cities and counties within the MSD boundaries and interested parties who have requested such notice and shall publish the notice in a newspaper having a general circulation in the district greater than 50,000. The notice shall state the name of the applicant, the type of permit requested and that the recipient of the notice and the public have thirty (30) days from the date thereof to

to file written comments pertinent to the application.

2. For tire carrier applications, the notice shall also contain the number of trucks applied for and the service areas applied for.

3. For processing or salvage center applications, the manager shall notify all other persons holding current and existing processing or salvage permits. The notice for such applications shall also contain the number of machines or salvage operations involved and the service area applied for.

SECTION XI:

Grant or Denial of Permit

1. The manager shall, after the time for comment has expired, review the applications and any comments filed thereon. He may make investigation of the applicant, the applicant's facilities or equipment. The manager may deny the permit if he has reasonable grounds to believe any of the following to be true:

a. The applicant's penal bond is not in the proper amount or is legally inadequate.

b. That the applicant has not complied with all applicable laws, regulations or ordinances and permits and franchise agreements to which he is a party respecting the collection, transportation and disposal of scrap tires.

c. That the applicant has materially misrepresented the statements in the application for a permit or in any testimony or documentary evidence given to the manager or to the board.

d. That the applicant has been convicted of a Class A or B misdemeanor or its equivalent or of a felony, or if the applicant is a firm or corporation that the principal partners or officers have been convicted of a Class A or B misdemeanor or its equivalent or of a felony.

e. That the applicant has failed to disclose all information in the applicant's possession deemed relevant to a decision on the application after written notification and a reasonable opportunity to do so.

f. That the applicant cannot meet the requirement of a tire carrier, processing or salvage center as the case may be.

2. If in the manager's judgment the applicant cannot adequately meet the requirements of all of the service areas for which the application is made, the manager may restrict the permit to those service areas in which applicant has demonstrated that the requirements can be met.

3. In the case of an application for a processing center, the manager may deny the permit in addition to the ground set forth in paragraph 1 above if he has reasonable ground to believe that the proposed tire processing center would jeopardize the operation and validity of any other tire processing center currently authorized by the MSD.

4. The applicant shall be advised in writing of the action of the board or manager on his application and that the applicant has the right to a contested case hearing under the provisions of ORS Ch. 183.

5. If the board makes a final order rejecting all or part of an application for a permit, the applicant may not submit another application for a period of six (6) months unless the board finds that the public interest requires reconsideration within a shorter period of time.

SECTION XII: Public Hearing

If the manager finds that a permit application has caused or might cause, if granted, public controversy or raise question of public policy, he may refer the application to the board for public hearing at their next regular or special meeting. The applicant and all those filing timely

written comments on the application shall be given no less than four (4) days nor more than ten (10) days written notice by mail of the time and place of the hearing. At the hearing, any member of the public may appear and be heard on the application.

SECTION XIII: Suspension, Modification, Revocation, or Refusal to Renew a Permit

1. The board may suspend, modify, revoke or refuse to renew a permit if it has reasonable grounds to believe that a permit holder has done any of the following:

a. Wilfully violated any of the conditions and requirements of the scrap tire program or ORS 459 or the rules and regulations respectively promulgated thereunder, or his permit and any conditions attached thereto.

b. Wilfully misrepresented the statement in the application for his permit or in any testimony or documentary evidence given to the manager or to the board.

c. Wilfully refused to provide adequate service to the public after written notification and a reasonable opportunity to do so.

2. In lieu of suspension, modification, revocation, or refusal to renew a permit, the board may order compliance and make suspension, modification, revocation or renewal contingent upon compliance with the order within a time stated within the order.

3. The procedures for suspension, modification, revocation or refusal to renew a permit shall be those specified for a contested case in ORS Ch. 183.

SECTION XIV: Penalties

1. Violation of any ordinance comprising the scrap tire program or a permit issued thereunder is punishable by

fine of not more than \$500.00.

2. Each day a violation referred to by subsection 1 of this section continues constitutes a separate offense. Such separate offenses may be joined in one indictment or complaint or information on several counts.

SECTION XV:

Abatement

The carrying, processing, disposing of or salvaging of scrap tires by any person in the district in violation of the ordinances comprising the scrap tire program or the rules and regulations promulgated thereunder is deemed a nuisance and the board may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate legal proceedings to temporarily or permanently enjoin or abate such disposal. The provisions of this section are in addition to and not in lieu of any criminal prosecution or penalties as provided by this ordinance or state law.

SECTION XVI:

Review of Board Action

All decisions of the board under this ordinance except those decisions with a right to a contested case hearing is involved, shall be reviewable by the Circuit Court of the County in which the board has its principal office under the provisions of ORS Ch. 34.010-34.100 which shall be the sole and exclusive remedy for this review.

June 13, 1975

APPROVED METROPOLITAN
SERVICE DISTRICT
BOARD OF DIRECTORS



Robert Schumacher, Chairman
Metropolitan Service District

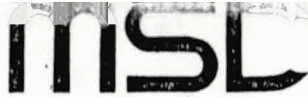
ACTION NO. 75-359

DATE 6-13-75

BY Jean M. Wood

CLERK OF THE BOARD

Miller Duris, Vice Chairman
Metropolitan Service District



METROPOLITAN SERVICE DISTRICT

NEW ADDRESS: 527 SW Hall, Portland, Oregon 97201 222-3671

June 13, 1975

Mr. Harold C. Hart
Administrator
Division of Court Process
225 County Courthouse
Portland, Oregon 97204

Dear Mr. Hart:

Enclosed are signed certified copies of MSD Ordinances No. 28 and No. 29. These ordinances were adopted by the MSD Board of Directors on June 13, 1975. Please include them in the MSD Ordinance File.

Very truly yours,

Jean M. Woodman
Administrative Secretary

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encls.