

Ordinance 2025.3.4

AN ORDINANCE OF THE CITY OF FLATONIA, TEXAS, AMENDING RECENTLY APPROVED DEFINITIONS AND REGULATIONS FOR THE REGULATION OF RESIDENTIAL AND COMMERCIAL COLLECTION, DISPOSAL, AND RECYCLING SERVICES OF TIRES WITHIN THE CITY LIMITS; CODIFYING SUCH PROVISIONS IN ARTICLE 8.05.006, NUISANCES ON PRIVATE PROPERTY – TIRES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Flatonia, Texas, has been presented with a review of environmental, safety, and health hazards that can be sustained within the community from tires left near roadways, waterways, open fields, or buildings;

WHEREAS, based upon information provided, certain items can create safety, environmental, and health hazards. Tires are one item that can pose a fire hazard and provide a habitat for disease-causing vectors; and

WHEREAS, the City Council, in order to improve the safety and health of the community for the citizens of Flatonia, desires to adopt certain provisions that will reduce such safety, environmental, and health hazards that may be associated with tires.

WHEREAS, the City Council is authorized to regulate such area by virtue of the Texas Health and Safety Code, the Texas Administrative Code, the city's police power, and by Chapters 51, 54, 211, 212, 214, 216, and 217 of the Texas Local Government Code; and

WHEREAS, the City Council now hereby amends and adopts the following rules and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLATONIA, TEXAS, AS FOLLOWS:

Section 1: FINDINGS OF FACT: The foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

Section 2: DEFINITIONS: As used in this ordinance, these terms shall be defined as follows. Terms appearing in this ordinance but not defined herein shall have the meanings provided in the city's code of ordinances, or if not defined by the city, then the common meanings in accordance with ordinary usage.

Sec. 8.05.006. NUISANCES ON PRIVATE PROPERTY – TIRES.

(1) Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Elements of nature means rainfall, snow, sleet, hail, or other natural precipitation.

Tire means any tire, whether new or used, whether serviceable or unserviceable, made wholly or partially of rubber which was manufactured for use on any vehicle propelled by a motor (including vehicles pushed or pulled by a vehicle propelled by a motor), regardless of whether such vehicle is intended for use on a public highway, provided that such tire is not mounted upon a wheel or rim and in service upon or carried as a component spare part of a vehicle.

Tire disposer means any person who, in compliance with all applicable state, federal, and local laws, rules, and regulations, disposes of or converts tires to another purpose, including, without limitation, persons who:

- a. landfill, incinerate, or otherwise dispose of tires as waste or as fuel; or
- b. by shredding, grinding, chemical treatment, or other means to reduce tires into basic components for oil, steel, carbon black, rubber, road paving, or other marketable salvage materials; or
- c. convert tires into other useful items such as doormats and sandal soles.

Tire re-processor means any person who regrooves, recaps, retreads, or otherwise remanufactures unserviceable tires into serviceable tires.

Truck means a vehicle designated to be operated by a permittee's drivers for the transport of unserviceable tires pursuant to the permit.

Unserviceable tire means any tire that is worn, defective, or damaged so that it is not fit for use upon a vehicle, regardless of whether such tire is in such condition that it can be remanufactured by a tire re-processor or not. Any tire manufactured for use on a public highway that is worn, defective, or damaged so that it fails to meet any one or more of the standards adopted by the Department of Public Safety for inspection of tires in conjunction with the state's inspection of vehicles program conducted pursuant to Article 6701d of the Revised Civil Statutes of Texas shall constitute an unserviceable tire. In the application of such standards, it shall be presumed that a tire was manufactured for use upon a public highway unless it is marked "not for highway use," "farm use only," "for racing purposes only," or with other use restrictions that would indicate the tire is not

meant for highway use. The term "unserviceable tire" shall not include any tire that has been shredded, ground, or cut up into pieces one quarter or less the size of the whole tire from which they were derived.

Unserviceable tire generator means any person (including, but not limited to, a person engaged in the sale and mounting of new, used, or remanufactured automobile, truck, and equipment tires who receives unserviceable tires in the exchange process associated therewith and a person who owns or operates fleets of trucks, taxicabs, buses, implements or other vehicles and services all or a portion of their own tire needs) who in the course of his normal business activities generates 100 or more unserviceable tires per calendar year.

Section 3: Handling and storage of tires:

(1) Open storage of tires declared a nuisance

The storage of any tire(s) upon any premises located within the City limits in such a manner that the tire is exposed to the elements of nature and is, thereafter, not handled and/or treated in a manner that is aimed at reducing, removing or addressing the elements of nature or the by-products that can result therefrom – stagnant water and mosquitoes - is hereby declared to be a nuisance which is subject to abatement at the expense of the owner of such premises as provided by law.

(2) Methods to reduce or remove elements of nature/by-products

Steps that any premises located within the City limits can undertake to reduce and/or remove/address the elements of nature or the by-products are:

1. Covering any such stacks of tires located on such premises;
2. Dumping of stagnant water that may accumulate in such tire on a basis of not less than every two to three weeks;
3. Regular spraying of mosquito repellant on the tires;
4. Removal of random tires that may have been dumped on such property and/or cutting up such tires such that they don't hold elements of nature or the by-products.
5. The City has a spring City-wide clean-up for its residential customers under which a roll-off will be provided for disposal of non-commercial, passenger vehicle tires only.

(3) Open storage of tires prohibited

It shall be unlawful for any person to store or to suffer or permit the storage of any tire or tires upon any premises within the city in such a manner without undertaking the above-noted steps to prevent the tire or tires from being exposed to the elements of nature.

(4) Tire business and mobile tire road repair service

In addition to the steps outlined in (3) above, tires or pieces may be stored in any enclosed building or other type of covered enclosure as defined by the Texas Commission on Environmental Quality, preventing the tire from being exposed to the elements of nature. Additionally, tires that are not being regularly switched out, or in excess of 400 must be enclosed behind a privacy fence unless the Fire Marshal sets a different maximum.

Section 4: Inspections.

- (1) The City may inspect any business that handles or stores tires during regular business hours to determine compliance with this ordinance.
- (2) After conducting an inspection, the City shall inform the business of any findings.
- (3) If a violation is found, the City shall:
 - (a) prescribe a reasonable time period for correction of violations. Re-inspections at prescribed time intervals will be conducted to determine whether required corrections have been made.

Section 5. Penalty.

A violation of this ordinance is considered a violation pertaining to public health and/or sanitation and is punishable by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Two Thousand Dollars (\$2,000.00) in accordance with City Code and each day that any violation continues shall constitute a separate offense; provided, however, that an offense provided in this article which also constitutes an offense under state law shall be punishable as provided in the applicable state law.

Section 6: Repealer: In the case of any conflict between the other provisions of this ordinance and any existing ordinance of the City, the provisions of this ordinance will control.

Section 7: Severability: If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, that invalidity or the unenforceability will not affect any other provisions or applications of this ordinance that can be given effect without the invalid provision.

Section 8. Enforcement: The City shall have the power to administer and enforce the provisions of this ordinance as may be required by governing law. Any person violating any provision of this ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations, and such violation is hereby declared to be a nuisance.

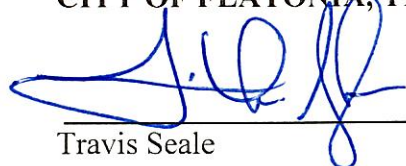
Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance and to seek remedies as allowed by law and/or equity.

Section 9. Effective Date: This ordinance shall be effective on May 3, 2025.

Section 10. Proper Notice and Public Meeting. It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED by the City Council of Flatonia, Texas, on the **27th day of March 2025**.

CITY OF FLATONIA, TEXAS



Travis Seale
Mayor

ATTEST



Jacqueline Ott
City Secretary

APPROVED AS TO FORM



Barbara Boulware-Wells
City Attorney

