

BOYD COUNTY FISCAL COURT

ORDINANCE # 505

AN ORDINANCE RELATING TO THE
REGULATION OF USED OR SCRAP
TIRES IN BOYD COUNTY

WHEREAS, the legislative body of Boyd County has determined that there exists an urgent health and safety need for the regulation of scrap tire disposal and recovery of resources therefrom; and

WHEREAS, the legislative body of Boyd County has the authority to preserve and enhance the natural resources of the County, to regulate commerce for the protection of the public; to exclusively manage solid waste; to contract for solid waste management services; to charge reasonable fees to waste haulers; to require mandatory use of a solid waste management facility and to join with other counties in its geographic area in a regional plan for management of solid waste, all pursuant to KRS 65.240, KRS 67.083, KRS 109.012(12), 109.041(18), and 109.059; and KRS 224.50.820 through 224.50-846, 200 KAR 17:020 (as amended, revised or modified.

WHEREAS, Boyd County recognizes that enforcement of this Ordinance is the responsibility of each County within its geographic boundaries;

NOW, THEREFORE, Be it Ordained by the legislative body of the County of Boyd, Commonwealth of Kentucky as follows:

SECTION 1. DEFINITIONS

Scrap Tire: Any size wheel covering made wholly or partly

of rubber, manufactured for use on any motor vehicle or mechanical cycle, not mounted upon a wheel or rim nor in service upon or carried as a component spare part, which is not acceptable for retreading and is no longer able to be used for the purpose for which it was made.

Tire Generator: Any person or corporation including those engaged in the sale and/or mounting of new, used or remanufactured motor vehicle and equipment tires who receives unserviceable tires in the course of business, and persons who own or operate fleets of trucks, taxicabs, buses, implements or other vehicles and service all or a portion of their own tire needs; also, existing sites where scrap tires have been dumped in the past.

Tire Disposer: Any person or corporation who, in compliance with applicable federal, state, and local laws, rules and regulations, is designated by the BCGL Board of Directors, to dispose of or convert scrap tires to other purposes in accordance with a contract entered into for this purpose at regional tire disposal site or sites.

Program Administrator: Designee of Boyd County Fiscal Court

County Administrator: County Judge of each county or his designee.

Local Enforcement Officer: Zoning, abatement or other comparable county official empowered by law to enforce county ordinances.

NREPC - Natural Resources and Environmental Protection Cabinet, Division of Solid Waste, Commonwealth of Kentucky.

BCGL - Boyd, Carter, Greenup and Lawrence counties

SECTION 2. DISPOSAL CONTRACT

All tire generators and tire disposers must have a contract

with a tire recycler approved by the State of KY NREPC.

SECTION 3. UNLAWFUL STORAGE

Any storage or use of scrap tires within the county in such a way as to allow unhealthful breeding of insects or pests or create fire hazards or any danger to citizens of the community is hereby declared to be unlawful. Any storage of more than five (5) scrap tires on the site of a residential dwelling or more than 100 scrap tires at a business, commercial or retreading site shall be considered unlawful.

SECTION 4. AUTHORIZED DISPOSAL

All tire generators within this county are henceforth required to dispose of their scrap tires only, with the NREPC authorized tire disposer at places and in a manner designated under the regional disposal plan. It is hereby found that, unless this requirement is met, the tire generator shall pay BCGL a fine of \$1.00 per tire in addition to the \$1.00 fee that shall be paid to the State of Kentucky. Any tire disposer who unlawfully dumps tires shall be subject to a fine of \$500.00 to \$1,000 for each violation. It will be the responsibility of the tire generator to make sure that the tire disposer is disposing of his tires in an approved manner.

SECTION 5. RECORD-KEEPING SYSTEM

There is hereby authorized a record-keeping system whereby any generator of more than five (5) scrap tires annually shall keep records of the number of scrap tires it generates and names of haulers to whom it entrusts scrap tires for delivery to a regional

disposal site, or records of delivery of scrap tires to the disposal site by the generator itself. Haulers shall keep records of tires accepted by them and delivered to official disposal sites. Site operators shall record names of haulers to them and number of tires accepted. All such records shall be kept on forms provided by the regional program administrator and shall be subject to periodic audit by employees and/or enforcement officers for this program, to be conducted at reasonable times during regular business hours. All records shall be retained for three years.

SECTION 6. LICENSING OF HAULERS

A. Any person wishing to haul scrap tires from generator source to regional disposal site shall obtain a permit to do so from the County Judge Executive's office or his designee in each county they are serving and county of final disposal by showing a current driver's license and furnishing requested information, including address and telephone number, or on application form provided by the program administrator. Applicants shall pay a fee of \$5.00. On approval of the application and payment of the fee, the program administrator shall issue the permit for a period of one calendar year. Renewal licenses shall be issued for a fee of \$2.00 upon a finding that the information in the original application remains valid. In case of trucking companies with more than one vehicle, each driver shall obtain a permit.

B. The program administrator or county administrator may revoke or suspend a permit to haul scrap tires for failure or refusal to comply with the provisions of this ordinance and any regulations promulgated under it. All regulations shall be

available to the public in the administrator's office. A suspension shall not last more than 10 days. Before a permit is revoked, the permit holder shall be afforded a hearing before the program administrator.

C. Any person against whom revocation is contemplated shall be notified in writing at least five days prior to the scheduled hearing and shall be informed of the reason for the action taken. The notice shall state that the person may be represented by counsel and may call witnesses at the hearing. The administrator may promulgate regulations to provide for fair and reasonable hearing procedures. A copy of hearing procedures shall be furnished any person against whom action is taken.

D. In case of emergency, defined as a "condition or situation likely to cause death or serious injury to any person or property," the administrator is authorized to revoke or suspend a permit until the emergency condition is corrected. An order of revocation or suspension for more than 10 days shall be approved and signed by the administrator.

E. Conviction of violating any moving vehicle law or of improper disposal of scrap tires shall be grounds for immediate revocation of the permit.

F. Once a permit is revoked, the person who held it may apply for a new permit after one year, presenting his case to the administrator as to his fitness to haul scrap tires. The administrator shall decide whether to grant a new permit, based on an assessment of the applicant's ability and intent to comply with rules and regulations of the program.

SECTION 7. EXISTING SCRAP TIRE STOCKPILES

Storage of tires upon any premises within the county in such a way as to allow unhealthful breeding of insects or pests or to create fire hazards or any danger to the citizens of the community, is hereby declared a nuisance, subject to abatement at the expense of the owner of the premises. Owners of property upon which scrap tires exist at the time this ordinance is approved shall immediately dispose of their scrap tires at the BCGL regional disposal site or report to the program administrator the estimated quantity of tires to be disposed of along with a plan for disposal within a reasonable period of time, but no later than one year from the date of reporting. Such reporting shall be done within 30 days of the effective date of this ordinance. Owners shall work with the administrator. A copy of hearing procedures shall be furnished any person against whom action is taken.

SECTION 8. FEES

The approved tire recycler shall be authorized to set reasonable fees for tires accepted for disposal.

SECTION 9. PENALTIES

A. Any person disposing of any quantity of scrap tires in a manner and time other than as provided by this ordinance shall be deemed to be disposing of them unlawfully and shall be subject to a fine of \$500 to \$1,000 for each day of violation, a jail term of 30 to 60 days, or both.

B. Failure to keep accurate records showing disposal of scrap tires to an authorized regional disposal site approved by State of Kentucky and BCGL or its designee shall subject the person in

violation to a fine of \$500 to \$1,000 for each day of violation, a jail term of 30 to 60 days, or both.

C. If owners of property containing scrap tires fail to dispose of the tires pursuant to the terms of this ordinance or any schedule for removal formulated by the regional program administrator and the Kentucky State NREPC administrator shall give written notice to remove to the owner. If any owner fails to remove tires within the time set by the administrator, the enforcement officer and the NREPC may enter upon the property where the tires are located and remove scrap tires to the regional disposal site. Cost of removal and all administrative costs shall be charged to the property owner and such cost shall constitute a lien against the property. The enforcement officer may cause notice of the lien to be filed in the office of the clerk of the county in which the property is located. Property subject to such lien shall be sold for nonpayment and proceeds applied to pay the costs and charges of removal as in the case of foreclosure on statutory liens. In addition, the owner shall be subject to criminal prosecution under applicable law prohibiting environmental pollution and/or nuisances.

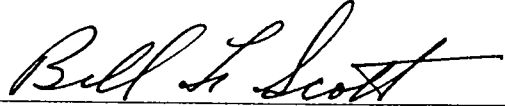
D. All BCGL members shall cooperate in enforcing this Ordinance. Enforcement shall be done under the jurisdiction of the county in which the scrap tires are located.

SECTION 10. IMPAIRMENT OF CONTRACTS

Nothing in this Ordinance shall be interpreted to interfere with or impair any obligations under any existing legal contracts

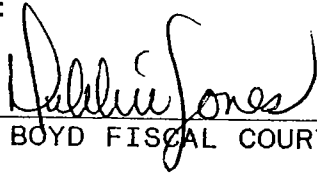
SECTION 11. EFFECTIVE DATE

This Ordinance shall have full force and effect upon its adoption and publication as required by law.



BILL SCOTT, JUDGE/EXECUTIVE
BOYD COUNTY, KENTUCKY

ATTEST:



CLERK, BOYD FISCAL COURT

FIRST READING

DATE: May 6, 1992

VOTED: COUNTY COMMISSIONERS

Charlie Pelfrey YES

Bill F. Scott YES
COUNTY JUDGE EXECUTIVE

Bob Reynolds YES

Billy Joe Ross ABSENT

SECOND READING

DATE: May 20, 1992

VOTED: COUNTY COMMISSIONERS

Charlie Pelfrey YES

Bill F. Scott YES
COUNTY JUDGE EXECUTIVE

Bob Reynolds YES

Billy Joe Ross YES