ORDINANCE NO. 5457

An Ordinance to Amend
Chapter 21, Motor Vehicles and Traffic
Section 21, 309, Wavier Provisions
To Provide for a Financial Hardship Waiver

WHEREAS, the Memphis City Council places great importance on ensuring the citizens of Memphis have a clean environment and,

WHEREAS, the city of Memphis vehicle inspection program deserves credit for improving the air quality, however the city does not want to impose an undue financial hardship upon the citizens of Memphis and,

WHEREAS, the Council acknowledges the good faith efforts of the citizens to have their motor vehicles repaired and,

WHEREAS, the Council believes that it is appropriate and in the best interests of the citizens of Memphis to provide for a one year financial hardship waiver.

Section 1. NOW THERFORE BE IT ORDAINED BY MEMPHIS CITY COUNCIL, that the Code of Ordinance of the City of Memphis, Tennessee, Chapter 21, Motor Vehicles and Traffic, Article IX. Inspections of Vehicles, Section 21-309. Wavier Provisions be amended to read as follows:

Sec. 21-309 Waiver Provisions

(1) The purpose of this section is to allow a person to operate a motor vehicle that fails to meet the applicable motor vehicle emission performance test criteria as specified in Sections 21-304 and 21-305, provided the department has issued a waiver to the owner of the motor vehicle.

(a) A waiver issued pursuant to this section shall relieve the registered owner of a motor vehicle from responsibility for taking any further action to reduce exhaust emissions from the motor vehicle until the motor vehicle is next due for inspection, pursuant to Section 21-302.

(b) Any registered owner of a motor vehicle may be eligible and may apply to the department for a waiver pursuant to this rule if:

(i) An application for a waiver is submitted to a representative at an inspection site designated by the department; and

(ii) The vehicle passed the tampering portion of the vehicle inspection; and

(iii) All of the exhaust emissions components appropriate to make, model, year, series, and engine size are in place and visually operating; and

(iv) The motor vehicle <u>failed the initial emissions test and the emissions</u> retest after repairs; and

(v) The registered owner of the motor vehicle has spent the required amount, pursuant to parts a, b, or c of this subparagraph, in parts and/or labor as an attempt to bring the vehicle into compliance with the motor vehicle emission performance test criteria as specified in Section 21-305 and has satisfied the

#23

remaining requirements of this subparagraph:

a. For 1980 and older model year vehicles – the minimum expenditure requirement is $75.00. All repairs must be appropriate and/or related to the cause of the test failure. This expenditure includes parts and labor, as specified in part d of this section.

b. For 1981 through 1995 model year vehicles – the minimum expenditure requirement is $200.00. All repairs must be appropriate and/or related to the cause of the test failure. This expenditure includes parts and labor, as specified in part d of this section.

c. For 1996 and newer model year vehicles – the minimum expenditure requirement is $650.00. All repairs must be appropriate and/or related to the cause of the test failure. This expenditure includes parts and labor, as specified in part d of this section.

d. The cost of labor can be applied towards the expenditure amount only if the repairs were performed by a certified repair technician (National Institute for Automotive Service Excellence [ASE] certified in engine repair and engine performance). Repairs performed by non-technicians (e.g., owners) may only apply the cost of parts towards the expenditure.

e. Documentation of repairs must be provided to the Department. Documentation shall include dated receipts itemized with the name of each part, part number, and manufacturer.

f. Emission related repairs were performed on the motor vehicle sixty (60) days before or after the initial failed exhaust emissions inspection.

g. Proof of registration is provided to the department. (Example: Title, vehicle registration).

h. The registered owner of a motor vehicle, within the failed vehicle's warranty period, shall use all available warranty coverage to have repairs made that are directed toward correcting the cause of the motor vehicle's inspection failure prior to applying for a waiver and provide support documentation pursuant to subparagraph (a) or (b) of this paragraph:

1. Documentation indicating that any available warranty coverage has been used to have the repairs made that are directed toward correcting the cause of the motor vehicle's failure to pass the motor vehicle inspection shall be provided to the Department; or

2. A written denial of warranty coverage for the needed repairs from the manufacturer or authorized dealer shall be provided to the Department.

(vi) Prior to the issuance of a waiver, Department staff shall perform a visual (under hood) inspection of the motor vehicle. This inspection will be performed to determine that emission related repairs have been completed and verify that the minimum expenditure has been met. If during the visual inspection any motor vehicle tampering, as defined in Section 21-307, is discovered, a waiver cannot be granted.

(vii) The waiver shall be valid for one year or until the next registration expiration

date, whichever is sooner.

(viii) A waiver shall be granted to the registered owner of a motor vehicle provided the requirements of this section have been fulfilled.

(ix) Upon receiving a waiver from the department, the registered owner shall be exempt from the requirements of section 21-302 within the time period prescribed in paragraph (vii) above.

(2) Upon application, the department may issue an exemption, as specified in paragraphs (a), (b), or (c) below, from the inspection requirements pursuant to this Article, provided the subject motor vehicle is registered in the name of the individual applying for the exemption and (i) is not impounded or non-operational; (ii) has never been inspected or has not failed inspection within the past ninety (90) days; or (iii) is not registered in another city or state.

(a) Out-of Town Exemption. The department may grant an exemption for a vehicle that is out-of-town during the required annual inspection period, subject to the following requirements:

i. The motor vehicle must be a minimum of three hundred (300) miles outside of the City;
ii. The applicant must complete the application required by the City and provide all documentation required by the department; and
iii. In the event a federal-approved emissions program is available in the locale where the motor vehicle is located, the motor vehicle must successfully pass a federal emissions test.

(b) Military Exemption. The department may grant an exemption for active-duty military personnel, including his or her spouse, when the military personnel's vehicle(s) are out-of-town during the required annual inspection period, subject to the following requirements:

i. The individual must provide evidence of an active-duty military identification and Leave Earning Statement (LES), issued by the military, of the motor vehicle owner or his or her spouse;
ii. In the event the motor vehicle was registered in another state, the vehicle must successfully pass a federal emissions test; and
iii. The individual must complete the application required by the City and provide all documentation required by the department.

(c) Reciprocal Inspection. The department may grant an exemption for motor vehicles inspected at another federal-approved inspection facility in another locale, subject to the following requirements:

i. The motor vehicle must have passed a federal-approved emissions test within the past ninety (90) days, and the individual must provide evidence of a certificate of compliance from such federal-approved inspection facility;
ii. The certificate of compliance, as referenced in the preceding paragraph, shall be valid for a period of ninety (90) days from the test completion date.

(d) <u>Financial Hardship. The department may grant a wavier for financial hardship subject to the following requirements.</u>

i. Submit a completed Financial Hardship Application including copies of:

a. Failed vehicle inspection report for emissions
b. Current vehicle registration in the applicant's name.
c. Valid Tennessee driver's License
d. Cost estimate for the vehicle emission related repairs
e. Statement of financial hardship
f. Seniors sixty-two years and older who are on fixed incomes and vehicles failed the initial On Board Diagnostic II test but pass the subsequent emissions tailpipe test would be granted a waiver for one (1) year.

THE FOREGOING ORDINANCE
5457 PASSED
1st Reading 6-5-2012
2nd Reading 6-19-2012
3rd Reading 7-03-2012
Approved Edmund Ford
Chairman of Council
Date Signed: 7/17/2012
Approved:
Mayor, City of Memphis
Date Signed: 7/20/2012

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.
Valerie C. Scipio
Comptroller

MEMPHIS MOTOR VEHICLE INSPECTION
Financial Hardship Waiver Application

(See rear of form for instructions)

Vehicle must be currently registered by owner in Memphis Tennessee to obtain a Financial Hardship Waiver. All requested information below must be completed and the **receipts and estimates** must be attached, or **your application will be denied**.

VEHICLE INFORMATION - Please Print:

Registration Expiration Date: _____ **Vehicle ID Number:** _____

License Plate Number: _____ **Year/Make of Vehicle:** _____

Registered Owner(s) – Please Print Name(s)/ Current Address:

Owner 1: _____ **Address:** _____

Owner 2: _____ **Address:** _____

ALL REGISTERED OWNER(s) MUST COMPLETE THE FOLLOWING:

Yes No

[ ] [ ] 1. Has this vehicle failed the vehicle emissions test? (A **"Reject"** is **not** a failure.)

[ ] [ ] 2. Has this vehicle previously received a financial hardship waiver?

[ ] [ ] 3. Have you attached a written estimate of emissions-related repair costs for at least $200? (See instructions the below)

The estimate must total at least **$75 for 1980 and older vehicles**, **$200 for 1995 and older vehicles**, or **$650 for 1996 and newer vehicles** on the cost of emissions-related repairs. The estimate must include parts, services, and diagnostic fees signed and dated from an Automotive Service Excellence (ASE) repair technician. **Note:** Costs of emissions recall repairs cannot be included in these estimates.

4. Please check the box and sign below.

[ ] I am having a financial hardship and unable to make the necessary emissions- related repairs to my vehicle.

I/We hereby swear or affirm the information provided above is true and correct, and authorize the City of Memphis Motor Vehicle Inspection Bureau or its representatives to make legitimate inquiries to all relevant federal, state, or local offices regarding the accuracy of the information provided.

Please sign and date:

Signature _____ Date_____ Phone Number _____

Signature _____ Date_____ Phone Number _____

After completing the application, send to:

City of Memphis Motor Vehicle Inspection Bureau 590 Washington Avenue	E-mail: mvib@memphistn.gov (Subject: Economic Hardship)
Memphis, TN 38105	

MEMPHIS

MOTOR VEHILCLE INSPECTION BUREAU

FINANCIAL HARDSHIP WAIVER

Instructions

Motorists may be eligible for a one year financial hardship waiver for a vehicle that fails the Memphis Vehicle Emissions Inspection if the household's income falls within the income guidelines. The hardship waiver is one time only for the life of the vehicle. The vehicle must be repaired for the next year inspection cycle.

To qualify for a financial hardship waiver:

1. The vehicle must be currently registered in applicant's name. Provide copy of registration.
2. Copy of a valid Tennessee driver's license.
3. The motorist must provide a completed Financial Hardship Waiver Application.
4. A current failed vehicle inspection test with the past thirty (30) days.
5. A type written estimate for the vehicle emission related repairs from an Automotive Service Excellence (ASE) repair technician.
6. Must have a financial hardship that prevents the motorist from making the emission-related repairs.