

ORDINANCE NO. 98005

AN ORDINANCE ESTABLISHING RULES, REGULATIONS AND PROCEDURES FOR ASCERTAINMENT, ASSESSMENT, AND COLLECTION OF DELINQUENT PRIVILEGE, LICENSE, RENTAL, GASOLINE AND TOBACCO TAXES AND FOR COMPELLING COMPLIANCE WITH THE REQUIREMENTS OF THE ORDINANCES LEVYING SUCH TAXES IN ADDITION TO AND CUMULATIVE WITH THOSE RULES, REGULATIONS AND PROCEDURES OTHERWISE ESTABLISHED BY ORDINANCE.

WHEREAS, the City of Hamilton, Alabama, has levied or may hereafter levy privilege, license, sales, use, excise, rental, gasoline or tobacco or other taxes on commerce within the City of Hamilton, Alabama; and

WHEREAS, procedures for ascertainment, assessment and collection of such taxes are specified in the several ordinances levying such taxes; and

WHEREAS, the city council of the city of Hamilton, Alabama desires to further regulate and define the procedures to be used in and about the ascertainment, assessment and collection of delinquent taxes.

NOW, THEREFORE, BE IT ORDNANED by the City Council of the City of Hamilton, Alabama, as follows:

SECTION 1. DEFINITIONS.

As used herein, the following words, terms and phrases shall have the meaning set forth as follows except where the content of their use clearly indicates otherwise:

- (a). "City" means the City of Hamilton, a municipal corporation in Marion County, AL.
- (b). "City Treasurer" means the city treasurer of the City, whether the same is the City Clerk or other duly designated officer.
- (c). "Revenue Agent" means that person, firm, or corporation duly designated, authorized and empowered, whether by appointment, employment, contract or otherwise, by the City Council for the City of Hamilton, Alabama, to assess, ascertain and collect privilege, license, sales, use excise, rental, gasoline or tobacco, or other taxes on commerce.
- (d). "Taxing Ordinance" shall mean any ordinance levying and providing for the collection of privilege, license, sales, use, excise, rental, gasoline or tobacco or other taxes on commerce.
- (e). "Responsible Party" shall mean the person, firm, or corporation upon a particular tax is levied or from whom payment of any particular tax is required by law or ordinance.

SECTION 2 INITIAL PROCEDURE.

(A) In the event the revenue agent discovers a discrepancy in any tax report filed by or on behalf of any responsible party, determines or suspects that there is a delinquency in the payment of taxes due on the account of any responsible party, discovers or suspects that some required report or other act of compliance from a responsible party according to any taxing ordinance has or may not have been made or done by a responsible party, or otherwise has a question

as to the status of the account or obligations of any responsible party, the revenue agent may, in his discretion, attempt to contact the responsible party, either by telephone or in person, to discuss the discrepancy, delinquency or other problem and attempt to resolve the same on an informal basis. If no such resolution can be reached without undue delay, the revenue agent shall proceed to the step outlined in subsection (b) hereof, or, in his discretion, he may make the first contact in such manner without first attempting telephone or personal contact.

(b) In the event the discrepancy, delinquency or other problem cannot be resolved informally as provided in subsection (b) where the revenue agent make such an attempt, and in cases where no such attempt is made, the revenue agent shall send a written notice of the discrepancy delinquency or other problem to the responsible party, which said written notice shall demand that the same be resolved within thirty (30) days of the date of the sending of the notice.

(c) In the event the procedures outlined in subsections (a) and (b) hereof do not bring about a resolution of the discrepancy, delinquency or other problem within the specified time, the revenue agent shall report this fact to the city treasurer, who shall, in turn, report the same to the Mayor of the City. The Mayor shall take such steps as are necessary to resolve the matter as expeditiously as possible, including, if deemed necessary, initiation of legal proceedings.

(d) The revenue agent is authorized to enter into informal agreements for resolution of the discrepancy, delinquency or other problem, provided that in no event shall the revenue agent enter into any agreement which will allow payment of any delinquent account over a period of time exceeding ninety (90) days without the express permission of the Mayor.

SECTION 3. LEGAL PROCEEDINGS.

(1) If the ordinance, statute or law in question clearly makes the conduct or omission of the responsible party, a misdemeanor, the revenue agent shall, after consultation and with the concurrence of the municipal prosecutor, cause the commencement of appropriate criminal proceedings in the Municipal Court, which, if permitted by the procedure of the Municipal Court, shall be initiated by seeking the issuance of a summons requiring the responsible party or its appropriate representative to appear before the Municipal Court to answer the charges. The case shall thereafter be pursued and shall proceed as any case before the Municipal Court for which a summons is the initial procedure. Otherwise, the case shall be initiated by warrant. In the event of an appeal to the Circuit Court for a trial de novo, the Municipal prosecutions both in Municipal Court and Circuit Court, the revenue agent shall fully assist the municipal prosecutor with the development and prosecution of the case.

(2) If there is any delinquency in taxes owed by the responsible party according to the calculations of the revenue agent, whether before or after commencement of criminal proceedings, which such delinquency cannot be resolved in accordance with the procedures outlined elsewhere herein, the revenue agent shall, through the assistance of the municipal attorney initiate and assist fully in the development and prosecution of civil proceedings in accordance with SS11-51-96, 11-51-150 through 161, Code of Alabama (1975), or any other lawfully authorized procedure, for the collections of such delinquent taxes. The municipal attorney is authorized to contact with the responsible party before initiating contact with the responsible party before initiating civil process and further authorized to enter into settlement agreements on behalf of the City, with the advice of the revenue officer and consent of the Mayor, prior to or after the initiation of any such civil proceedings.

SECTION 4. ORDINANCE CUMULATIVE AND NOT EXCLUSIVE.

This ordinance and the procedures set out herein shall be deemed cumulative with and in addition to all other ordinances of the City and the procedures set out therein and shall not be construed to repeal any of the provisions of any other ordinances of the City. Likewise, the procedures set out herein shall not be exclusive, but are cumulative with those otherwise allowed by law or ordinance.

SECTION 5. SEVERABILITY.

Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void or invalid shall not effect any other provision hereof.

SECTION 6 EFFECTIVE DATE.

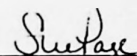
This ordinance shall become effective immediately upon its adoption and publication according to law.

ORDAINED THIS 27th DAY OF APRIL, 1998.

Approved: 

Ken Mays, Mayor

Attest:
(Seal)


Sue Page, City Clerk