

ORDINANCE NUMBER 2009-22

AN ORDINANCE OF THE CITY OF HAMILTON TO

BE IT ORDAINED by the City Council of the City of Hamilton, Alabama, as follows:

SECTION I. Findings.

The City Council of the City of Hamilton finds and declares all of the following:

A. Driving a motor vehicle on the public streets and highways is a privilege, not a right.

B. Of all drivers involved in fatal accidents, a driver with a suspended license is more likely to be involved in a fatal accident than a properly licensed driver.

C. Alabamians who comply with the law are frequently victims of traffic accidents caused by unlicensed drivers. These innocent victims suffer considerable pain and property loss at the hands of people who flaunt the law.

D. A large number of persons whose driving privilege has been suspended or revoked continue to drive regardless of the law.

E. It is necessary and appropriate to take additional steps to prevent unlicensed drivers from driving. The City of Hamilton has a critical interest in enforcing its traffic laws and in keeping unlicensed drivers from illegally driving. Seizing the vehicles used by unlicensed drivers serves a significant governmental and public interest, namely the protection of the health, safety, and welfare of the citizens of Hamilton from the harm of unlicensed drivers who are involved in a disproportionate number of traffic incidents, and the avoidance of the associated destruction and damage to lives and property.

F. This ordinance is consistent with the due process requirements of the Constitution of the United States and the Constitution of the State of Alabama and the holding of the Supreme Court of the United States in Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663 (1974).

SECTION II. Definitions.

A. **IMPOUNDING AGENCY:** The City of Hamilton Police Department and its Police Officers.

B. **LEGAL OWNER.** A lienholder, person with a security

interest in a motor vehicle, a lessor of a motor vehicle, assignee of the lessor, or the person who is the registered owner of the motor vehicle.

SECTION III. Impoundment.

A. Notwithstanding any other provisions of law, and except as otherwise provided in this section, a motor vehicle is subject to impoundment as a nuisance if it is driven on a highway or other public roadway in the City of Hamilton, Alabama and any of the following conditions exist:

The motor vehicle is driven by a person whose license or license privilege is suspended or revoked at the time he or she was stopped for having been previously convicted of driving under the influence of alcohol or controlled substance, including but not limited to, being adjudicated delinquent or a youthful offender based on a DUI related offense as defined in Section 32-5A-191 of the Code of Alabama, 1975.

B. If a driver is unable to produce a valid driver license on the demand of the law enforcement officer, the vehicle shall be impounded regardless of ownership, unless the police officer is reasonably able, by other means, to verify that the driver is properly licensed. Prior to impounding the vehicle, a law enforcement officer shall make a reasonable attempt to verify the license status of a driver who claims to be properly licensed, but who is unable to produce the license on demand of the law enforcement officer. A notation of the officer's attempt to verify that the driver is properly licensed shall be noted on the incident offense report. The driver and occupants of the vehicle will be transported to a place of safety by the impounding officer and a pull in report made with a full inventory of items in the vehicle.

C. A law enforcement officer shall not impound a vehicle pursuant to this Ordinance if the license of the driver expired within the preceding 90 days and the driver would otherwise have been properly licensed.

D. If the owner of the vehicle or another family member of the owner is present in the vehicle and has a valid license, the vehicle shall not be impounded and towed.

E. If there is a medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle.

SECTION IV. Release.

A vehicle impounded pursuant to this Ordinance shall be released if

A. The registered owner or his/her representative appears at the Hamilton Police Department or a representative with written notarized authorization from the registered owner appears, and presents a valid

driver license, a copy of the title, tag receipt, or notarized bill of sale, and a copy of the written authorization, if applicable, to be copied by the Police Department.

B. If the registered owner does not have a valid driver license he/she may bring someone with them who has a verified valid license and the vehicle may be released without written notarized permission.

C. Any owner of a vehicle who suffers any loss due to the impoundment of any vehicle pursuant to this Ordinance may recover the amount of the loss from the unlicensed, suspended, or revoked driver.

SECTION V. REDEMPTION OF VEHICLE.

The person redeeming the vehicle at the wrecker lot will be responsible for paying the set towing and storage fee.

SECTION VI. SALE OF IMPOUNDED VEHICLE.

Any vehicle impounded that is not redeemed pursuant to this Ordinance within 60 days may be sold by the wrecker company for fees owed according to the laws of the State of Alabama.

SECTION VII. 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 affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might be held invalid.

SECTION VIII. EFFECTIVE DATE.

This ordinance shall become effective immediately upon its adoption and publication as required by law.

Adopted and approved this the 16th day of November, 2009.

Bobby Holliday
Mayor for the City of Hamilton

Authenticated:

Jar Williams
Clerk for the City of Hamilton