

ORDINANCE NUMBER 2289

**AN ORDINANCE AMENDING ORDINANCE NUMBER 1755
AUTHORIZING THE TOWING, IMPOUNDMENT AND
STORAGE OF A MOTOR VEHICLE DRIVEN BY A PERSON
WITHOUT A VALID DRIVERS LICENSE**

WHEREAS, Ordinance Number 1755, adopted and approved by the City Council of the City of Vestavia Hills, Alabama on February 1, 1999 authorized the towing, impoundment and storage of a motor vehicle driven by a person without a valid drivers license; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to amend Ordinance Number 1755 to read in its entirety as follows:

WHEREAS, Alabama law provides that every person, except those specifically exempted by statutory enactment, shall procure a drivers license before driving a motor vehicle on the highways of the State of Alabama and that every new resident of the State of Alabama shall procure an Alabama drivers license within thirty (30) days after establishing residency in this state (Title 32-6-1, Code of Alabama, 1975); and

WHEREAS, Alabama law provides that any person for whom a drivers license is required, who drives a motor vehicle on a public highway in this State without first having complied with Alabama law shall be guilty of a misdemeanor, and upon conviction shall be punished in accordance with Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this Ordinance shall continue shall constitute a separate offense; and

WHEREAS, Alabama law provides that any person whose drivers or chauffeurs license issued in the State of Alabama or whose driving privilege as a nonresident has been cancelled, suspended or revoked or cancelled for a minimum of 90 days and who drives any motor vehicle on the highways of this State while his or her license or privilege is cancelled, suspended or revoked shall be guilty of a misdemeanor and upon conviction in accordance with Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this Ordinance shall continue shall constitute a separate offense, and

WHEREAS, the City of Vestavia Hills, Alabama has a critical interest in enforcing its traffic laws and in keeping unlicensed drivers from illegally driving. Seizing the motor vehicles used by unlicensed drivers serves a significant governmental and public interest; namely, the protection of the health, safety and welfare of Alabamians from the harm of unlicensed drivers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

Section 1: Definitions: For the purposes of this Ordinance, the following words shall have the following meanings:

- A. “City” means The City of Vestavia Hills, Alabama.
- B. “Driver” means every person who drives or is in actual physical control of a motor vehicle.
- C. “Driver’s License” means any license to operate a motor vehicle issued under the laws of the State of Alabama or under the laws of any other state.
- D. “Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of motor vehicular travel, including specifically but not limited to, streets, highways, roads and other public ways.
- E. “Legal Owner” means a lienholder, person with security interest in a motor vehicle, a lessor of a motor vehicle, assignee of the lessor or a person who is the registered owner of the motor vehicle.
- F. “Motor Vehicle” means every vehicle which is self-propelled specifically including but not limited to automobiles, cars, trucks, buses, vans, motorcycles and motor driven cycles.
- G. “Person” means every natural person, firm, co-partnership, association or corporation.

Section 2: Impounding and Storing of Motor Vehicle: If a person driving, operating or having physical custody and control of a motor vehicle on a highway in the City of Vestavia Hills is unable to produce a valid drivers license on the demand of a law enforcement officer, the vehicle shall be towed, impounded and stored regardless of ownership, unless the peace officer is reasonably able, by other means, to verify that the

driver is properly licensed. Prior to impounding a motor 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.

Section 3: Exception: A law enforcement officer shall not impound a motor vehicle pursuant to this Ordinance if the drivers license of the driver expired within the preceding ninety (90) days and the driver would otherwise have been properly licensed.

Section 4: Arrest: The driver will be issued a citation for the offense and will be released after signing the citation if there are no mitigating circumstances. If the driver refuses to sign the citation, he/she may be arrested and taken to the Vestavia Hills Police Department where normal booking procedures shall be followed. The Officer shall complete an incident/offense report detailing the offense and the Officer's attempts to check the license status of the driver through NCI, ACJIS, LETS or other sources. The arresting Officer will assist the driver to a safe area to arrange transportation from the scene if needed.

Section 5: Inventory of Contents of Motor Vehicle: When towing, impounding and storing a motor vehicle, the Police Officer is responsible for inventorying any valuables that may be in the motor vehicle. Therefore, a motor vehicle inventory shall be conducted, made and noted in the remarks section of the Tow-In Report.

Section 6: Release of Motor Vehicle: The legal owner of a motor vehicle towed, impounded and stored pursuant to this Ordinance may have said motor vehicle released from impoundment and may obtain possession of said motor vehicle; provided, however, the said legal owner shall have first done the following things:

- A. Produced and furnished documented proof of ownership of the said motor vehicle to the City; and
- B. Pay any and all fees and other charges for towing, impounding and storing said motor vehicle; and

C. Furnish to the City a valid drivers license for said legal owner or in the alternative having a person with a valid drivers license driving said motor vehicle away from the place of impoundment.

Section 7: Severability: If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance which shall continue in full force and effect notwithstanding such holding.

Section 8: Effective Date: This Ordinance shall become effective immediately upon the passage and approval thereof by the City Council of the City of Vestavia Hills, Alabama and the publication and/or posting thereof as required by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this the 23rd day of November, 2009.

David Carrington
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2289 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 23rd day of November, 2009, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Public Library, and Vestavia Hills Recreational Center this the _____ day of _____, 2009.

Rebecca Leavings
City Clerk