

**AN ORDINANCE AUTHORIZING RANDOM DRUG TESTING
OF CERTAIN EMPLOYEES OF THE CITY OF HAMPTON**

WHEREAS, the Mayor and Council of the City of Hampton, Georgia, have determined that the use of illegal drugs and/or controlled substances by city employees presents a clear and present danger to the public, other city employees, and public and private property; and

WHEREAS, the Mayor and Council of the City of Hampton, Georgia, desire to use all lawful means to prevent the use of illegal drugs and/or controlled substances by city employees; and

WHEREAS, the Mayor and Council of the City of Hampton, Georgia have determined that random drug testing of certain city employees, in a manner authorized by state law with respect to comparable positions of state employment, will be in the best interests of the public and all city employees;

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAMPTON, GEORGIA, AND IT IS HEREBY ORDAINED BY AUTHORITY THEREOF, THAT THE CODE OF THE CITY OF HAMPTON IS HEREBY AMENDED AS FOLLOWS:

An Ordinance relating to personnel administration, so as to provide for certain random drug testing of certain city employees; to provide for definitions; to provide which employees shall be subject to such testing; to provide for exclusion of certain employees; to provide for powers, duties, and authority of the City Manager with

respect to the foregoing; to provide for the effect of positive test results; to provide for the effect of refusal to provide certain body fluids; to provide an effective date; to repeal conflicting ordinances; and for other purposes.

Section 1: Definitions

(A) "Employee" subject to random drug testing means any employee of the City of Hampton, whether paid or volunteer, who is: (a) required to be certified by the Georgia Peace Officer Standards and Training Council under the provisions of O.C.G.A. §§ 35-8-1 et seq.; or (b) any employee required to be so certified and working under a personnel contract to provide services, including but not limited to medical, security, or transportation services to the City of Hampton, Georgia; or (c) any employee working in "high-risk" jobs, as hereinafter defined.

(B) "Established Drug Test" means the collection and testing of bodily fluids administered in a manner equivalent to that required by the Mandatory Guidelines for Federal Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et. seq.), as amended, or any other professionally valid procedures approved by the Georgia Department of Human Resources.

(C) "High-risk work" means those duties where inattention to duty or errors in judgment while on duty will have the potential for significant risk of harm to the employee, other employees, or the general public. For purposes of this Ordinance, the following positions shall be considered "high-risk

work," and employees holding such positions shall be subject to random drug testing hereunder: Drivers or operators of any city vehicle, including automobiles, trucks, tractors, motor graders, back hoes, street sweepers, fork lifts, or any other vehicle used for transportation, construction or maintenance work; Emergency Medical Technicians; Firefighters; Mechanics responsible for the maintenance or upkeep of safety devices on city vehicles and/or equipment; Public Safety Dispatchers; Operators of outdoor power equipment; Sanitation truck operators (including employees responsible for operating mechanized equipment thereon); Utility Plant Operators (electrical, water and sewer/wastewater), and those employees who handle hazardous chemicals.

(D) "Illegal Drug" means marijuana as defined in paragraph (16) of O.C.G.A. § 16-13-21, as amended; a controlled substance as defined in paragraph (4) of O.C.G.A. § 16-13-21, as amended; a dangerous drug as defined in O.C.G.A. § 16-13-71, as amended; or any other controlled substance or dangerous drug that persons are prohibited from using. The term "illegal drug" shall not include any drug when used pursuant to a valid medical prescription or when used as otherwise authorized by state or federal law.

Section 2: Employees Subject to Random Drug Testing

(A) Any and all employees within the definitions set forth in Section 1(A) and 1(C) above shall be subject to random

drug testing for evidence of use of illegal drugs.

(B) The City Police Chief shall designate those employees who regularly perform high-risk work, as defined herein in Section 1(C) above. This Ordinance shall not be construed to include employees who do not regularly perform high-risk work regardless of the fact that other employees in the same classification do perform such high-risk work.

Section 3: Duties of the City Police Chief

- (A) The City Police Chief shall be responsible for:
- (a) Assuring that employees are selected for testing on a random basis;
 - (b) Assuring that privacy intrusions are minimized during collection of body fluid specimens;
 - (c) Assuring that all body fluid specimens are stored and transported to testing laboratories at proper temperatures and under such conditions that the quality of the specimens shall not be jeopardized;
 - (d) Assuring that the identity of employees whose tests show the usage of an illegal drug is limited to the staff who are entitled to this information; and
 - (e) Restricting access to drug test records and results only to those persons entitled to the information. The City Manager shall also adopt

such other rules as he or she deems appropriate to carry out the purposes of this Ordinance.

(B) The Mayor and Council will review all rules adopted by the City Police Chief hereunder and shall have the discretion to change, modify or abolish any or all of said rules.

(C) The City Police Chief shall establish and maintain a list of those laboratories qualified to conduct established drug tests and shall determine which illegal drugs will be the subject of testing; provided, however, that no laboratory shall be so certified unless that laboratory, on a daily basis, adds to its urine testing program a minimum of 10 percent blind test specimens.

Section 4: Penalties For Use of Illegal Drugs or Refusal To Submit To A Drug Test

(A) Any employee subject to random drug testing by virtue of this Ordinance and who produces a positive drug test result revealing the presence of illegal drugs or controlled substances shall be suspended with pay for a period not to exceed ten (10) days; the employee will be notified of the drug test results and shall be given a copy of this Ordinance. During the period of his or her suspension, the employee (either in person or in writing) may rebut the test, explain any mitigating circumstances, or offer any other explanation to the Mayor and

Council. If the Mayor and Council then determines the employee used an illegal drug or controlled substance without legal justification, the employee shall be terminated from his or her employment.

(B) Any employee who refuses to provide body fluid or otherwise submit to a drug test when requested to do so in accordance with the random drug testing conducted pursuant to this Ordinance shall be warned orally that such refusal will result in termination from employment. If the employee thereafter continues to refuse to submit to the drug test, the employee shall be terminated from his or her employment.

Section 5: Effective Date

This Ordinance shall become effective on August 1, 1990.

Section 6: Conflicting Ordinances

All Ordinances and parts of Ordinances in conflict with this Ordinance are repealed.


Section 7: Severability

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable; and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, that unconstitutionality shall

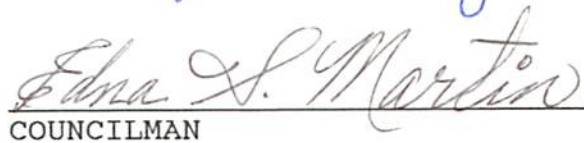
not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the Mayor and Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

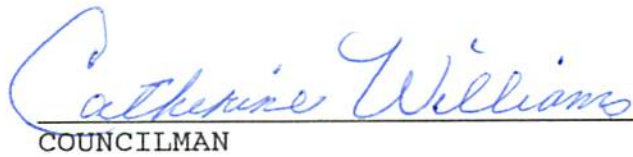
Adopted this 14TH day of AUGUST, 1990.

FIRST READING 6-12-90
Second Reading 8-14-90


MAYOR


COUNCILMAN


COUNCILMAN

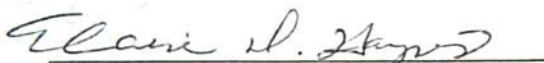

COUNCILMAN


COUNCILMAN

COUNCILMAN

COUNCILMAN

ATTEST:


CITY CLERK