

ORDINANCE NO. 83

AN ORDINANCE

To impose occupation taxes, administrative fees and regulatory fees on businesses subject to the jurisdiction of the City of Hampton; to provide definitions; to provide penalties and enforcement; to repeal conflicting ordinances; to provide an effective date; and for other purposes.

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF
THE CITY OF HAMPTON, GEORGIA**

Ordinance No. 21A of the City of Hampton, Georgia, is repealed in its entirety and the following new Sections are inserted in lieu thereof to read as follows:

Occupation Taxes, Administrative Fees and Regulatory Fees.

Section 1. Definitions. The following words, terms and phrases shall, for the purposes of this chapter, have the following meaning:

(A) "Administrative Fee" is the component of the occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

(B) "City" means the City of Hampton.

(C) "Employee" is any individual who, for compensation, exerts substantial effort within the State of Georgia for the purpose of soliciting business or serving customers or clients.

(D) "Location" or "office" means a fixed place located within the City of Hampton from which a person conducts

business, but shall not include a work site located in the City for less than six months for the purpose of serving a single customer or project.

(E) "Occupation Tax" means a tax levied for revenue purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business in the City of Hampton.

(F) "Occupation Tax Certificate" means a document issued by the City of Hampton acknowledging payment of the occupation tax and administrative fee.

(G) "Practitioners of Professions and Occupations" are those individuals listed in O.C.G.A. § 48-13-9(c) (1)-(18) but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

(H) "Regulatory Fee" means a fee which approximates the cost of regulatory activity by the City.

(I) "Regulatory Fee Certificate" means a document issued by the City of Hampton acknowledging payment of a regulatory fee.

Section 2. Administrative Fee. A non-prorated, non-refundable administrative fee of \$10.00 is required on all occupation tax accounts for the initial registration, annual renewal or reopening of such accounts.

Section 3. Regulatory Fee.

(A) Businesses and individuals engaging in the

occupations or businesses set forth in Appendix "A" must pay a non-refundable regulatory fee in accordance with the rate set forth in Appendix "A".

(B) If a business or individual initially engages in an activity regulated by the City on or after July 1 in any year, the regulatory fee for the remaining portion of the year shall be fifty percent (50%) of the regulatory fee for the entire year.

(C) Every business, individual and location subject to payment of a regulatory fee levied by this ordinance shall display a current regulatory fee certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the City, the regulatory fee certificate or an unaltered duplicate of such certificate shall be shown to any police officer or City Clerk upon request.

Section 4. Occupation Tax Levied; Limitations.

(A) An occupation tax based upon number of employees in the State of Georgia is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the City and, pursuant to the O.C.G.A. § 48-13-7, upon out-of-state businesses with no location or office in the City but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients

in the State of Georgia in accordance with the following schedule:

<u>Number of Employees</u>	<u>Occupation Tax</u>
0 - 3	\$40.00
4 - 8	\$60.00
9 - Up	\$90.00

(B) The City shall not require the payment of more than one occupation tax for each location of a business or practitioner.

(C) A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this ordinance shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.

(1) If a business or practitioner with no location or office in Georgia provides to the City proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.

(2) If a business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia where the largest dollar volume of business is done or service is performed by such business or practitioner. This

limitation shall only apply when the business or practitioner has provided to the City satisfactory proof as to the applicability of this subsection.

(3) A business or practitioner which has locations in Georgia subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the City of Hampton for the number of employees who are employed within the corporate limits of the City. This limitation shall only apply when the business or practitioner has provided to the City satisfactory proof of current payment of the occupation tax of the other local government(s).

(4) If an employee works for the same business or practitioner in more than one municipal corporation or county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the City only if the City is the jurisdiction where such employee works for the longest period of time within the calendar year.

(D) If a business or practitioner commences business in the City on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be fifty percent (50%) of the tax imposed for the entire year. The administrative fee shall not be reduced.

(E) If a business or practitioner does not know how many employees which are the basis of this occupation tax will

be employed by the business or practitioner during the current calendar year, then the business or practitioner shall file a return estimating the number of employees which are the basis of this occupation tax. If such estimate is not accurate, then no later than December 31 the business or practitioner shall file an amended return indicating the actual number of employees during the previous calendar year. Any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amounts due and owing to the City for any reason or paid to the business or practitioner at the discretion of the City Clerk.

(F) Real estate brokers shall be subject to occupation tax pursuant to this ordinance only if they maintain a principal or branch office in the City.

Section 5. Occupation Tax Certificate. Every business, practitioner and location subject to payment of the occupation tax levied by this ordinance shall display a current occupation tax certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the City, the occupation tax certificate shall be shown to any police officer upon request.

Section 6. Practitioners of Professions and Occupations. Practitioners of professions and occupations as defined in

this ordinance shall pay the occupation tax as set forth in Section 5 above or shall pay an occupation tax of \$125.00 per practitioner. On the tax return for 1995 or such later time as the practitioner first commences business in the City, the practitioner shall elect a method of taxation. Such election shall be changed for subsequent calendar years only by a written request filed by the practitioner on or before February 1 of the year in which the election is to be changed.

Section 7. Exemptions.

(A) No occupation tax shall be levied on the following:

(1) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state, or a municipality or county of the state;

(2) Those businesses regulated by the Georgia Public Service Commission;

(3) Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia;

(4) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;

(5) Non-profit, agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-

105;

(6) Motor common carriers pursuant to O.C.G.A. § 46-7-15;

(7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;

(8) Pursuant to O.C.G.A. § 48-5-356 for persons selling or introducing into the City agricultural products or livestock, including animal products, raised in this state when the sale and introduction are made by the producer of the product and the sale is made within ninety (90) days of the introduction of the product into the City;

(9) Depository institutions pursuant to O.C.G.A. § 48-6-93; or

(10) Any business where the levy of such occupation tax is prohibited by the laws of the State of Georgia or the United States.

(B) The exemptions and limitations contained in this ordinance shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

Without limiting the generality of the foregoing, the following ordinances are specifically not repealed or

otherwise affected by this ordinance:

- (1) Ordinance No. 21B regarding license fees on life insurers;
- (2) Ordinance No. 21C regarding regulations of peddlers;
- (3) Ordinance No. 34 regarding malt beverage brewers dealers and wine retailers;
- (4) Ordinance No. 47 regarding business license taxes on financial institutions;
- (5) Ordinance No. 56 regulating flea markets;
- (6) Ordinance No. 78 regulating cable television stations;
- (7) Ordinance No. 79 regulating adult entertainment establishments; and
- (8) Ordinance No. 80 which amends Ordinance No. 21B.

Section 8. Evidence of State Registration; When Required.

Each person who is licensed under Title 43 of the Official Code of Georgia Annotated by the Examining Boards of the Secretary of State's Office shall provide evidence of proper and current State licensure before any City occupation tax certificate or regulatory fee certificate may be issued.

Section 9. Evidence of Qualification Required If Applicable.

- (A) Any business required to obtain health permits,

bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of an occupation tax certificate or a regulatory fee certificate, show evidence of such qualification.

(B) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

Section 10. Filing Returns; Other Information Required or Requested.

(A) On or before November 1 of each year, an individual business or practitioner subject to this occupation tax ordinance shall file with the City Clerk on a form approved by and available from the City a signed return attesting to the number of employees of such business or practitioner during the calendar year.

(B) Individuals, businesses and practitioners doing business in the City shall submit to the City Clerk or make available within 30 days such information as may be required or requested by the City to determine the applicability and amount of the occupation tax or regulatory fee or to facilitate levying or collection of the occupation tax and/or regulatory fee(s).

Section 11. Confidentiality. Information provided by a business or practitioner to the City for the purpose of determining the applicability and amount of the occupation tax

or levying or collecting the occupation tax is confidential and exempt from disclosure under Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia. Such information may be provided to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collecting occupation tax or prosecution for failure or refusal to pay occupation tax.

Section 12. Date Due; Penalty.

(A) Any occupation tax or regulatory fee due pursuant to this ordinance shall be due and payable annually on December 31. In the event that any person commences business or initially engages in a regulated activity in the City after January 1 in any year, the tax and/or fee shall be due and payable on the date of the commencement of the business or regulated activity.

(B) Any individual, business or practitioner subject to any occupation tax or regulatory fee imposed by this ordinance which is unpaid after January 10 shall be subject to a penalty of Ten Dollars (\$10.00).

Section 13. Enforcement; Violations.

(A) It is the duty of the City Clerk to administer and enforce the provisions of this ordinance, to perform all functions necessary to administer and enforce this ordinance and to summon violators of this ordinance to appear before the Municipal Court. The City Clerk may issue executions against individuals, businesses and

practitioners for taxes and fees which are due and owing.

(B) The City Clerk shall issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed, one percent (1%) per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax or regulatory fee and become fixed as of the date and time the occupation tax or regulatory fee became delinquent. The execution shall be levied by the City Clerk of the City upon property of the delinquent tax or fee payer located in the City and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the Code and Charter of the City and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter of the City and the laws of Georgia in regard to tax executions.

(C) When a nulla bona entry has been entered upon an execution, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charges whatever for services rendered after the

entry of the nulla bona. If, at any time after the nulla bona entry has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due to such person as if such person had never defaulted in the payment of the tax.

(D) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax or regulatory fee charged pursuant to this ordinance shall be subject to fine and/or imprisonment not to exceed the limitations of the City Charter.

(E) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the City requests or requires for determining applicability or amount of occupation tax or regulatory fee, or for levying or collecting such occupation tax or regulatory fee shall be subject to suspension of the right to conduct business.

(F) All persons subject to the occupation tax or regulatory fee imposed by this ordinance shall be required to file for and pay such tax or fee. For failure to do so, any officers or agents soliciting for or obtaining such person business shall be subject to the same penalty as other persons, businesses or

practitioners who fail to obtain, make a return for or pay the applicable occupation tax or regulatory fee.

Section 14. Public Hearing. After January 1, 1996, the City shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in Section 4.

Section 15. Prior Ordinance. To the extent that any occupation taxes or regulatory fees are owed pursuant to an ordinance passed prior to this one, such amounts remain due and owing and the provisions of that prior ordinance will remain in effect with respect to such unpaid occupation taxes or regulatory fees until such time as they are paid in full.

Section 16. Severability. In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of Hampton that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect as if the invalid or unconstitutional section, sentence, clause or phrase were not originally part of the ordinance.

Section 17. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 18. Effective Date. This ordinance shall become effective _____, 19__.

FIRST READING: December 13, 1994

SECOND READING: December 21, 1994

SO ORDAINED, THIS 21st DAY OF DECEMBER, 1994.

Don S. H.

MAYOR

B B Wray
COUNCIL MEMBER

Charles M Cox
COUNCIL MEMBER

Alice J. Pendley
COUNCIL MEMBER

Steve Yance
COUNCIL MEMBER

Catherine Williams
COUNCIL MEMBER

Wm Mc Brayer
COUNCIL MEMBER

ATTEST:

Elaine Hayes
CITY CLERK

APPENDIX "A"

<u>BUSINESS</u>	<u>AMOUNT CHARGED</u>
1. Building and construction contractors, subcontractors, and workers;	50.00
2. Carnivals; (300,000 Insurance Required)	500.00
3. Taxicab and limousine operators; per vehicle	25.00
4. Tattoo artists;	N/A
5. Stables;	N/A
6. Shooting galleries and firearm ranges;	N/A
7. Scrap metal processors;	25.00
8. Pawnbrokers;	25.00
9. Food service establishments;	50.00
10. Dealers in precious metals;	50.00
11. Firearms dealers;	50.00
12. Peddlers;	15.00
13. Parking lots;	25.00
14. Nursing and personal care homes;	125.00
15. Newspaper vending boxes;	25.00
16. Modeling agencies;	50.00
17. Massage parlors;	50.00
18. Landfills;	N/A
19. Auto and motorcycle racing;	N/A
20. Boarding houses;	N/A
21. Businesses which provide appearance bonds;	50.00
22. Boxing and wrestling promoters;	N/A
23. Hotels and motels; 5.00 per unit or max. of	200.00
24. Hypnotists;	50.00
25. Handwriting analysts;	N/A
26. Health clubs, gyms, and spas;	25.00
27. Fortunetellers;	N/A
28. Garbage collectors; State Lic. Required	50.00
29. Escort services;	N/A
30. Burglar and fire alarm installers; and	50.00
31. Locksmiths	25.00