

1 **Ordinance to Amend and Reenact the City Code of the City of Hampton, Virginia**
2 **by Amending Chapter 2, Administration, Article III, Officers and Employees**
3 **Generally, Section 2-108, to Authorize Criminal History Checks for City**
4 **Volunteers, and to Make Other Amendments to Mirror State Code Provisions.**

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6 **BE IT ORDAINED** by the City Council of the City of Hampton, Virginia, that Section 2-
7 108 of Article III, Chapter 2 of the City Code of the City of Hampton, Virginia be
8 amended to read as follows:

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10 **Chapter 2 - ADMINISTRATION**

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14 **ARTICLE III. - OFFICERS AND EMPLOYEES GENERALLY**

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18 **Sec. 2-108. - Criminal *history checks* background investigations of employees**
19 **and applicants for city employment.**

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21 (a) ~~In order to determine whether,~~*In accordance with Virginia Code § 15.2-1503.1 and*
22 *Virginia Code § 19.2-389,* in the interest of public welfare and safety, *the director of*
23 *human resources or their designee, shall request a criminal record check for (i) any*
24 *applicant for initial hire who is identified as a selected candidate for an applicant*
25 *who is offered or accepts employment with the city including applicants for volunteer*
26 *positions; or, (ii) a current employee candidate who is selected for promotion or*
27 *transfer.*~~may be disqualified from such employment due to a criminal record, the~~
28 ~~director of human resources or department hiring official, or their designees, shall~~
29 ~~request from the Virginia Central Criminal Records Exchange a criminal record~~
30 ~~check of each applicant for city employment in security sensitive positions. Security~~
31 ~~sensitive positions include those where the anticipated duties or responsibilities~~
32 ~~involve:~~

33 ~~(1) Handling of cash, checks, credit transactions or job-specific accountability for~~
34 ~~public funds;~~

35 ~~(2) Direct provision of services to minors or persons unable to care for themselves;~~

36 ~~(3) Entry for work purposes into or on to private living and work spaces;~~

37 ~~(4) Capability and authorization to alter city technology support systems; or~~

38 ~~(5) Service with either the police department or fire department.~~

39 (b) *The director of human resources may require a periodic criminal record check for*
40 *current employees and volunteers when authorized by federal or state law.*~~city~~
41 ~~further reserves the right to require submission to criminal background checks by~~
42 ~~current employees where circumstances reasonably warrant review of their~~
43 ~~suitability for employment in security sensitive positions. The human resources~~

44 director shall develop and maintain a list of all security sensitive positions which
45 shall be approved by the city manager.

46 (c) *Any applicant, employee, or volunteer described in this section shall, if required,* In
47 addition, under the provisions of Code of Virginia Sections 19.2-389 and 15.2-
48 1503.1 and in the interest of public welfare and safety, the director of human
49 resources or department hiring official shall require any applicant who is offered or
50 accepts employment with the city in any security sensitive position to submit to
51 fingerprinting and to provide personal descriptive information to be forwarded along
52 with the applicant's fingerprints through the eCentral eCriminal rRecords eExchange
53 to the Federal Bureau of Investigation for the purpose of obtaining criminal history
54 information regarding such applicant. Where authorized under the provisions of
55 Code of Virginia Section 15.2-1503.1, the city may require such applicants to pay
56 for the cost of fingerprinting or a criminal records check, or both.

57 (d) Criminal history information considered in accordance with this section shall include
58 outstanding warrants, pending criminal charges, and records of conviction. Records
59 of dispositions which occurred while an applicant was a juvenile shall not be
60 referenced unless authorized by law or court order.

61 (e) Any applicant who is denied employment, *including for any volunteer position; any*
62 *current employee candidate denied promotion or transfer; or any current employee*
63 *disciplined or separated* on the basis of information obtained in accordance with this
64 section shall be notified of the information obtained, and shall be provided an
65 opportunity to review the criminal history report and to provide additional information
66 in response.

67 (f) The criminal history information provided in accordance with this section shall be
68 used solely to assess eligibility for city employment or service, and shall not be
69 disseminated by the city to any person not involved in the assessment process.

70 (g) The human resources director *may* shall develop and issue procedural instructions
71 and regulations for implementation of the provisions of this section, ~~including but not~~
72 ~~limited to uniform criteria which shall be considered in determining when criminal~~
73 ~~record information bears a sufficient relationship to job duties to disqualify the~~
74 ~~applicant or employee.~~

75 ~~(h) Nothing in this section shall be construed to limit the city's right to consider in the~~
76 ~~hiring process information regarding applicant or employee misconduct, criminal or~~
77 ~~otherwise, voluntarily reported by the applicant or employee or obtained from~~
78 ~~sources other than a criminal history record report made pursuant to this section.~~

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80 ~~**Cross reference** – Fire prevention, Ch. 14; police, Ch. 29.~~

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82 *State Law reference - Background checks required for certain employees and*
83 *licensees, Code of Virginia § 15.2-1503.1; Dissemination of criminal history record*
84 *information, Code of Virginia § 19.2-389.*