

I. INTRODUCTION

The Council of the City of Kirksville is committed to protecting its revenue, property, information, and other assets from any attempt by elected officials, appointed committee/board members, and employees (individuals) of the City of Kirksville, as well as any individual or entity doing business with the City such as contractors, vendors, and agents.

II. DEFINITIONS

- A. **FRAUDULENT CONDUCT.** Defined as the use of one's occupation or position for personal enrichment through the deliberate misuse or misapplication of the City's resources or assets, or for the personal enrichment of others. Fraudulent conduct and dishonesty may include but are not limited to actual financial loss incurred, damage to the reputation of the City, negative publicity, cost of investigation, loss of employees, loss of public confidence, damaged relationships with City contractors and suppliers, litigation, and damages employee morale.
- B. **ASSET MISAPPROPRIATIONS.** Theft or misuse of an organization's assets.
1. **Cash**
 - a) *Fraudulent disbursements* - The perpetrator causes the City to disburse funds through some trick or device (e.g., submitting false invoices/time cards/sheets, expense reimbursement schemes, check tampering, etc.) or prevents the timeliness of the disbursement of funds.
 - b) *Embezzlement* - Perpetrator appropriates monies fraudulently to one's use, as money or property entrusted in one's care.
 - c) *Skimming* - Cash is stolen from the City before it is recorded on the City's records.
 - d) *Cash larceny* – Cash is stolen from the City after it has been recorded on the City's records.
 2. **Inventory and all other assets**
 - a) *Misuse* – Improper use, misappropriation, misapplication, destruction, removal, or concealment of the City's inventory or assets for personal use (e.g., City vehicles, computers, supplies, etc.).
 - b) *Larceny* – Inventory or other assets are stolen from the City.
- C. **CORRUPTION.** Wrongful use of influence in a business transaction to procure some benefit for themselves or another person, contrary to duty to the City, or the rights of another.
1. **Conflicts of interest** - An undisclosed economic or personal interest in a transaction that adversely affects the City.

2. Bribery - The offering, giving, receiving, or soliciting of anything of value to influence an official act or a business decision.
 3. Illegal gratuities - A party that benefits from an official act or a business decision in giving a gift to a person who made the decision. An illegal gratuity does not require proof of intent to influence.
 4. Economic extortion - An individual demands that a vendor/contractor/etc. pay to influence an official act or a business decision.
- D. FRAUDULENT STATEMENTS. Falsification of the City's financial statements.
- E. OTHER SIMILAR IRREGULARITIES. Any activity involving questionable behavior or business dealings by members of the public, contractors, vendors, agents, or City employees, that put City revenue, property, information, and other assets at risk of waste or abuse.
- F. FRAUD INVESTIGATOR. In this context, reference is to any person or persons assigned by the City Manager in consultation with the City Council (whether a City employee or an individual or firm retained by the City on a contract basis) to investigate any fraud or similar activity.

III. RESPONSIBILITIES

If there is knowledge or suspicion of an act committed in violation of this policy:

Mayor and City Council Responsibilities:

- A. If the Mayor or a Councilmember has reason to suspect that an incident of fraudulent conduct has occurred, he/she shall immediately contact the City Manager. The Mayor or Councilmember shall not attempt to investigate the suspected incident of fraudulent conduct or discuss the matter with anyone other than the City Manager. The investigation shall not be discussed with the media by any person other than through the City Manager in consultation with the City Attorney and the Fraud Investigator.
- B. If a fraud allegation involves the City Manager, the Mayor and City Council shall select a Fraud Investigator to investigate the allegation and report the results thereof. The City Council shall select a professional services firm or individual to act as the Fraud Investigator. The Fraud Investigator shall inform the City Council of pertinent investigative findings and results.
- C. If a violation of this policy is determined, the City Council will take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the City Attorney.

Management Responsibilities:

- A. Be responsible for instituting and maintaining a system of internal controls to provide reasonable assurance for the prevention and detection of fraudulent conduct, and other similar irregularities.
- B. Be familiar with the types of improprieties that might occur within their area of responsibility and be alert for any indications of such conduct.

- C. When an improper activity is detected or suspected, determination should be made of whether an error or mistake has occurred, or if there may be dishonest or fraudulent activity.
- D. Upon receipt of any allegation of fraud, the City Manager shall notify the City Council of such allegation.
- E. In notifying the City Council, the City Manager shall exercise care to ensure that the City Council is fully aware of the nature of the allegation presented while ensuring that the rights and identity of individuals involved are duly protected.
- F. Based upon consultation with the City Council, the City Manager shall select a Fraud Investigator to investigate the allegation and report the results thereof. This shall be based upon consideration as to whether City staff has the necessary degree of independence and competence as well as sufficient time available to ascertain the validity of the allegation that has been brought forth. If these qualifications are not met by internal staff, the City Manager in consultation with the City Council shall select a professional services firm or individual to act as the Fraud Investigator.
- G. If any member of management determines a suspected activity may involve fraud or related dishonest activity, their immediate supervisor shall be informed. Department managers shall contact the City Manager.
- H. Management shall not attempt to conduct individual investigations, interviews, or interrogations. However, management is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent the reoccurrence of improper actions. Management shall support the City's responsibilities and cooperate fully with the Fraud Investigator, other involved departments, and law enforcement agencies in the detection, reporting, and investigation of criminal acts, including the prosecution of offenders.
- I. Management shall give full and unrestricted access to all necessary records and personnel. All City property is open to inspection at any time and there is no assumption of privacy.
- J. In dealing with suspected dishonest or fraudulent activities, great care must be exercised. Management should avoid the following:
 - 1. Incorrect accusations
 - 2. Alerting suspected individuals that an investigation is underway
 - 3. Unfair treatment of employees
 - 4. Making statements that could lead to claims of false accusations or other offenses
- K. In handling dishonest or fraudulent activities, management shall:
 - 1. Make no contact (unless requested) with the suspected individual to determine the facts or demand restitution. Under no circumstances should there be any reference to "what you did", "the crime", "the fraud", "the misappropriation", etc.
 - 2. Avoid discussion of the case, facts, suspicions, or allegations with anyone outside the City government, unless specifically directed to do so by the City Attorney.

3. Avoid discussion of the case with anyone inside the City government other than employees who need to know such as the City Manager, Fraud Investigator, City Attorney, or law enforcement personnel.
4. Direct all inquiries from the suspected individual, or representative, to the City Manager or City Attorney. All inquiries by an attorney of the suspected individual shall be directed to the City Attorney. All inquiries from the media shall be directed to the City Manager.
5. Take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the City Attorney or labor relations representative, in conformance with the City's personnel policies.

Employee Responsibilities:

- A. A suspected fraudulent incident or practice observed by, or made known to, an employee shall be reported to the employee's supervisor for reporting to the proper management official.
- B. When the employee believes the supervisor may be involved in the inappropriate activity, the employee shall make the report directly to the next higher level of management and/or the City Manager.
- C. The reporting employee shall refrain from further investigation of the incident, confrontation with the alleged violator, or further discussion of the incident with anyone unless specifically requested by the City Manager, Fraud Investigator, City Attorney, or law enforcement personnel.

Fraud Investigator Responsibilities:

- A. Upon assignment by the City Manager, the Fraud Investigator shall promptly investigate the fraud. Where there appears to be reasonable grounds for suspecting that a fraud has taken place, the Fraud Investigator, in consultation with the City Attorney, shall contact the Police Department or other appropriate law enforcement authorities.
- B. Shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
- C. If evidence is uncovered showing possible dishonest or fraudulent activities, the Fraud Investigator shall proceed as follows:
 1. Discuss the findings with management and the department manager, if appropriate.
 2. Advise management, if the case involves staff members, to meet with the City Manager (or designated representative) to determine if and the extent of disciplinary actions to be taken.
 3. Report to the City's external auditor of such activities to assess the effect of the illegal activity on the City's financial statements.
 4. Coordinate with the City's Risk Management regarding notifications to insurers and filing of insurance claims.
 5. Take immediate action, in consultation with the City Attorney, to prevent the theft, alteration, or destruction of evidentiary records. Such action shall include, but not be limited to:

- a) Removal of records to place in a secure location or limit access to the location where the records currently exist.
 - b) Prevent the individual suspected of committing the fraud from having access to the records.
6. In consultation with the City Attorney and the Police Department, the Fraud Investigator may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
 7. If the Fraud Investigator is contacted by the media regarding an alleged fraud or audit investigation, the Fraud Investigator shall consult with the City Manager and the City Attorney, as appropriate, before responding to a media request for information or interview.
 8. After the investigation, the Fraud Investigator shall document the results in a confidential memorandum report to the City Manager and City Attorney. If the report concludes that the allegations are founded, the report shall be forwarded to the Police Department and City Council.
 9. Unless exceptional circumstances exist, a person under investigation for fraud is to be given notice in writing of essential particulars of the allegations following the conclusion of the audit. Where notice is given, the person against whom allegations are being made may submit a written explanation to the Fraud Investigator no later than seven (7) calendar days after notice is received.
 10. The Fraud Investigator shall be required to make recommendations to the appropriate department for assistance in the prevention of future similar occurrences.
 11. Upon completion of the investigation, including all legal and personnel actions, all records, documents and other evidentiary material obtained from the department under investigation shall be returned by the Fraud Investigator to that department.

IV. WHISTLE-BLOWER PROTECTION

Individuals who observe and, in good faith, report a violation of the City's fraud policy shall be granted the protections contained herein. However, such protection shall not be afforded to individuals who are the subject of pending disciplinary action. When informed of a suspected impropriety, neither the City nor any person acting on behalf of the City shall:

- A. Dismiss or threaten to dismiss the reporting individual;
- B. Discipline, suspend, or threaten to discipline or suspend the reporting individual;
- C. Impose any penalty upon the reporting individual; or
- D. Intimidate or coerce the reporting individual.

Violation of this section shall result in discipline up to and including dismissal per applicable federal 41.U.S.C. § 4712, state, and local administrative laws.

V. POLICY ACKNOWLEDGEMENT

Applicable individuals are required to review the current City of Kirksville Fraud Policy and acknowledge their receipt of it by signing the Fraud Recognition and Understanding form as they are hired, elected, or appointed.

VI. DISCIPLINE

Violations of this policy by a City employee will be handled per the City's Administrative Policy

Manual. Elected officials violating this policy will be handled per the appropriate State Laws. All other persons or entities that are found to have violated this policy will be either removed from the applicable board or committee or subject to suspension by the City from future business transactions for a specified period.

VII. EXCEPTIONS

There shall be no exceptions to this policy unless provided and approved by the City Council.