

19-10 RESOLUTION

Adopting A Fraud, Waste And Abuse Policy For The City Of Newton

WHEREAS, Newton, Illinois, has the authority to adopt resolutions that pertain to its government and affairs that involve the welfare of its citizens; and

WHEREAS, Newton has determined it is in the public welfare to adopt a policy regarding the prohibition of fraud, waste and abuse by City employees, volunteers and elected officials;

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council Members of Newton as follows:

- Section I: The statement contained in the preamble to this Resolution are found to be true and correct, and are hereby adopted as part of this Resolution.
- Section II: The City Council members hereby adopts the policy set forth in Exhibit A as and for the City's policy strictly prohibiting the commission or concealment of acts of fraud, waste, or abuse.
- Section III: If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Resolution that can be given effect that the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.

PASSED THIS 19th DAY OF NOVEMBER , 2019.

AYES: Larry Brooks, Marleen Harris, Robert Reisner, Gayle Glumac, David Brown

NAYES: None

ABSENT: Eric Blake

APPROVED by me this 19th day of November, 2019.



Robert Reisner, Mayor Pro Tem

ATTESTED and FILED in my office this 19th day of November, 2019.

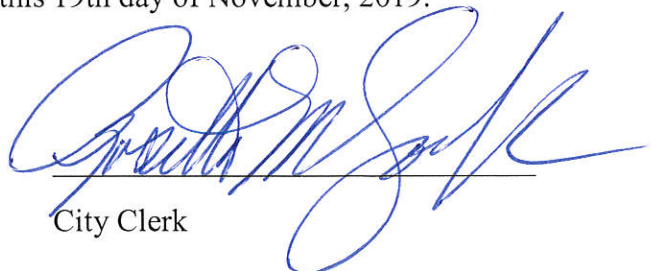

City Clerk

EXHIBIT A

Fraud, Waste, and Abuse Policy

PURPOSE

This policy applies to all city council members, employees, and/or approved city volunteers. This policy applies to any instance of fraud, waste, or abuse involving not only employees, but also external organizations doing business with the council.

GENERAL PURPOSE OF POLICY

The City of Newton strictly prohibits the commission or concealment of acts of fraud, waste, or abuse. Any instance of such acts will be investigated and pursued to conclusion, including any employment or legal action where warranted. All city council members, employees, and/or volunteers are responsible for reporting suspected instances of fraud, waste, and abuse in accordance with this Policy.

The city officials are responsible for the monitoring of city operations, including the protection of city assets from fraud, waste, and abuse. The city officials have the primary responsibility over the implementation of internal and external controls to identify and detect fraud.

The city auditor provides independent comprehensive audits and investigations to improve the city's operations and contracts. The city auditor is responsible for assisting in the deterrence and detection of fraud, waste, and abuse in the city by examining and evaluating the adequacy and the effectiveness of the city's systems of internal control, commensurate with the extent of the potential risk in the various segments of the city's organization. The city auditor's primary responsibility is investigating any allegation of fraud, waste, and abuse; compliance and other violations are investigated by the appropriate offices in the city.

To provide employees and citizens with a confidential and secure means of reporting suspected fraud, waste, and abuse in the city, the city council, and city auditor have established a Fraud, Waste, and Abuse Referral System. See the below definitions of "fraud", "waste", and "abuse." "Waste" and "abuse" are not necessarily fraudulent acts; however, each situation will be reviewed independently to assess the circumstances of the situation and occurrence of events.

After an investigation, if it is found that fraud, waste and/or abuse has occurred, disciplinary action up to, and including, termination (for employees) may be imposed on the individual

that committed fraud, waste and/or abuse against the city. If the act is completed by a city council member or volunteer, legal actions may be pursued.

CONFIDENTIALITY AND ANONYMITY

Through the city auditor, your anonymity is assured. When you report, please remember the following concerning confidentiality and anonymity:

- Even if you report anonymously, once the report has been filed and the investigation begins, your co-workers or others who are familiar with the situation you are reporting may still be able to guess your identity.
- Whether you report anonymously or not, the city auditor will treat your report with confidentiality.
- It is not possible to guarantee absolute confidentiality in all circumstances. Disclosure to others inside or outside the city may be required by law in certain cases.

Please do not let these possibilities discourage you from reporting an incident.

WHISTLEBLOWER PROTECTION

Retaliation against an employee who in good faith filed a report of alleged fraud, waste, or abuse, or who participated in an investigation, in violation of this Policy. Such “whistleblower protection” is granted via Illinois State Law, under 740 ILCS 174.

DEFINITIONS

Waste

“Waste” means the needless or careless expenditure, consumption, mismanagement, use, or extravagant of resources owned or operated by the city to the disadvantage, or potential disadvantage, of the city. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls. Waste does not necessarily involve private use or personal gain, but almost always signifies poor management decisions, practices, or controls.

Fraud

Fraud consists of a dishonest, deliberate, and illegal act (the intentional wrongdoing) that results in an employee gaining money, property, or an advantage that they would not normally be entitled to.

Legally, fraud can lead to a variety of criminal charges, including theft, embezzlement, and larceny – each with its own specific legal definition and required criteria – each of which can result in severe penalties and a criminal record.

Abuse

“Abuse” means the excessive, or improper, use of something, or the use of something in a manner contrary to the natural or legal rules for its use; the intentional destruction, diversion, manipulation, misapplication, maltreatment, or misuse of resources owned or operated by the city; or extravagant or excessive use so as to abuse one’s position or authority. “Abuse” does not necessarily lead to an allegation of “fraud”, but it could.

Examples of fraud, waste, and abuse activities include, but are not limited to:

- Forgery or alteration of city and/or employee records/documents
- Misrepresentation of information on documents
- Theft, unauthorized removal, or willful destruction of city records, city property, or the property of other persons (to include the property of employees, customers, or visitors).
- Purchase of unneeded supplies or equipment.
- Purchase of goods at inflated prices.
- Misappropriation of funds, equipment, supplies, or any other assets.
- Improprieties in the handling and reporting of financial transactions.
- Falsifying work hours reported, or excessive use of city time for personal business.
- Authorizing or receiving payments for goods not received or services not performed.
- Soliciting or accepting a bribe or kickbacks.
- Authorizing or receiving payment for hours not worked.
- Falsifying payroll information.
- Misuse of authority for personal gain.
- Any computer-related activity involving the alteration, destruction, forgery, or manipulation of data for fraudulent purposes.
- Inappropriate use of city-provided electronic devices, such as computers, PDAs, cell phones, pagers, or e-mail.
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RESPONSIBILITIES

Employees

Any city employee who has knowledge of fraud, waste, or abuse, or who has good reason to suspect that such conduct has occurred, shall abide to the procedures in this Policy.

When an employee is made aware of suspected fraudulent activity, waste, or abuse, the employee shall immediately report the activity to his/her direct supervisor. If the employee believes that the supervisor is involved with the activity, he/she shall immediately report the activity to the supervisor's manager and the city council. If the employee believes that the supervisor's manager and/or a city council member may be involved with the activity, the employee shall either contact the city auditor directly or file a report online.

The employee reporting an allegation shall not make any attempt to investigate the suspected activity prior to reporting it. The city auditor will be the one to manage the investigation of any fraud, waste, or abuse allegations.

An employee shall not destroy, or allow anyone else to destroy, any documents or records of any kind that the employee knows may be relevant to a past, present, or future investigation of fraud, waste, or abuse.

Administration's Responsibilities

Once administration has been informed of suspected fraud, waste, or abuse (or if administration itself suspects fraud, waste, or abuse), administration shall either contact the city auditor directly or file a report online. See section of this Policy titled "How to File a Report."

City Auditor's Responsibilities

The city auditor will receive all reports. The city auditor will also start and direct all investigations. When the city auditor receives a report from the city, the Office will review the report and determine if it has any follow-up questions for the person who filed the report. The person filing the report may follow up on the status of the report by contacting the city auditor.

To the extent allowed by law, the city auditor (and any assistants working for the city auditor) will review pertinent information in a confidential and professional manner and will conduct a preliminary investigation of the alleged activity. The preliminary investigation may include employee interviews and analyses of available records. A full investigation will follow if evidence points to possible fraud, waste, and/or abuse.

The city should allow the city auditor unlimited and unrestricted access to all books, records, property (including desks and computers), and personnel during such investigations. Once an

investigation is started, the city auditor will take immediate action to prevent the theft, alteration, or destruction of relevant records. Such actions may include, but are not limited to, limiting access to the location where the records currently exist, preventing the individual(s) who is(are) the subject of the investigation from having access to the records, and/or taking actual possession of such records.

Once the city auditor has sufficient evidence that there is indeed an unauthorized, illegal, irregular practice that could or has affected the city, the city auditor is required under State Statute to report the matter to the city council. If a member of the city council, is believed to be a party to the matter, the city auditor will report the matter directly to the city supervisor and/or attorney. If it appears that the matter is criminal in nature, the city auditor will immediately report it to the attorney in addition to those previously cited. The city auditor and attorney will then advise other departments/agencies as necessary (e.g., Police Department, State Attorney General's Office or Human Resources).

FILING A REPORT

General

Please keep the following in mind when reporting via the hotline:

- If possible, report the issue to your supervisor or manager first.
- You must be able to provide adequate information to support an investigation. Mere speculation does not suffice.
- Your report must be made in good faith. An employee who knowingly makes a false or bad faith complaint will be subject to disciplinary and/or legal action.
- DO NOT USE THE HOTLINE TO FILE REPORTS FOR VIOLATION TYPES NOT LISTED IN THE BELOW SECTION OF WHAT SHOULD NOT BE REPORTED.

How to File a Report

The hotline is designed to maintain your confidentiality and anonymity. The hotline is for reporting any suspected fraud, misconduct, or abuse by city employees, contractors, and/or vendors related to the city's departments or operations.

Phone

If you observe any fraud, waste, abuse, or misuse of city resources, or in the operations of the city assets, please call the Auditor's Office, care of the city at 618-783-8451. This number is answered by the city auditor's city representative (Monday through Friday) between the hours of 8:00 a.m. and 4:30 p.m.

Online

Fill out a Fraud, Waste & Abuse Form Online and submit electronically.

Mail

Print out the Fraud, Waste & Abuse Form [PDF] and mail to:

Newton, City auditor
City Auditor's Office
108 N. Van Buren
Newton, IL 62448

Email

Send an email with detailed information to: cityclerk@cityofnewtonil.com

In Person

Speak with the Mayor, City Manager, City Clerk or city auditor, in-person either at the Auditor's Office or at an alternate location.

City Auditor
108 N. Van Buren
Newton, IL 62448

Fax

Submit detailed information of the fraud, waste, or abuse of city resources via fax to 618-783-8451.

What detail should be reported?

What should you report? Whichever method you use to report (on the phone, online, in-person, etc.), it is important that you can provide as much detailed information as possible so that your reported issue can be properly investigated. Six basic elements should be included in your report:

WHO - Who are the individuals responsible for the reported violation of policy and who is aware of the improper activity?

WHAT - What is the improper activity? Is there documentation that substantiates the reported improper activity?

WHERE - Where did the improper activity occur; within a city department or elsewhere? Where can the investigator locate the individual(s) involved or those who have information about the activity? Where can an investigator find documents or other evidence related to the activity?

WHEN - When did the activity occur? When did you discover it? Is it still occurring?

WHY - Why did the activity occur? Did the activity benefit those involved?

HOW - How was the activity able to occur? Were controls circumvented that allowed the activity to occur?

What should not be reported?

The Fraud, Waste, & Abuse hotline is reserved for reporting instances of fraud, waste, and abuse within city operations and its related departments. It is not intended for:

- complaints about your neighbors
- private businesses
- other non-governmental entities, unless related to city
- other local governments, such as municipalities or townships, unless related to city government

If something reported is found not to be within the authority of the city auditor to investigate, it will be referred to the appropriate agency or authorities as necessary. **Most importantly, please make sure that the allegation of fraud, waste, or abuse of city resources you report is as accurate and truthful as possible. Do not intentionally report false or misleading information. The intentional reporting of false or purposely misleading information can result in civil or criminal liability.**