

CITY OF FERNLEY
RESOLUTION #17-015

RESOLUTION TO ADOPT THE CITY OF FERNLEY FRAUD POLICY

WHEREAS, City consultants have recommended the City implement a fraud policy; and

WHEREAS, this fraud policy shall be established to promote consistent organizational behavior and to facilitate the development of controls that will aid in the detection and prevention of fraud against the City; and

WHEREAS, the City of Fernley recognizes the necessity for having a fraud policy to promote awareness, assign responsibility, provide reporting direction, and define how fraud will be dealt with; and

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Fernley, meeting in regular session, on this 2nd day of August, 2017 in Fernley, Nevada, that the following policy be adopted:

Section 1: City of Fernley Fraud Policy

Purpose

The City's fraud policy is established to promote consistent organizational behavior and to facilitate the development of controls that will aid in the detection and prevention of fraud against the City. This policy shall provide guidelines and assign responsibility for the development of controls, reporting and the administration of investigations.

Like all organizations, the City is faced with risks from wrongdoing, misconduct, dishonesty and fraud. As with all business exposures, the City must be prepared to manage these risks and their potential impact in a professional manner.

The impact of wrongdoing, misconduct, dishonesty and fraud may include:

- the actual financial loss incurred
- damage to the City's reputation and its employees
- negative publicity
- the cost of investigation
- loss of employees
- damaged relationships with the City's contractors and suppliers
- litigation
- damaged employee morale

- loss of trust

The goal is to establish and maintain a business environment of fairness, ethics and honesty for City employees, City customers, City suppliers and all with whom the City has a relationship. To maintain such an environment requires the active assistance of every employee and manager every day.

The City is committed to the detection and prevention of fraud and the correction of wrongdoing, misconduct dishonesty and fraud. The discovery, reporting and documentation of such acts provides for a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including termination where appropriate, the referral to law enforcement agencies when warranted by the facts and the recovery of assets.

This policy applies to any irregularity or suspected irregularity, involving employees as well as the Mayor, Council members, consultants, vendors, contractors and any other agency having a business relationship with the City.

Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title or relationship to the City. Any accused shall be considered innocent until proven guilty.

Responsibility

Management, to include City Council, department heads, deputies, foreman and supervisors, is responsible for the detection and prevention of fraud, misappropriation and other irregularities. Fraud is defined as "the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury". Each member of the management team shall be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of irregularity.

Further, any employee with supervisory and review responsibilities at any level has deterrence and detection responsibilities. Specifically, personnel with supervisory or review authority have the following responsibilities:

- To be aware of the risks in one's area of authority;
- To put into place and maintain effective monitoring, review and control procedures that will prevent acts of fraud;
- To put into place and maintain effective monitoring, review and control procedures that will promptly detect acts of fraud should prevention efforts fail.

Authority to carry out these responsibilities is often delegated to subordinates. However, accountability for their effectiveness cannot be delegated and will remain with supervisors and managers.

Reporting

It is the responsibility of every employee, supervisor, manager and member of Council to immediately report any detected or suspected wrongdoing, misconduct, irregularity, dishonesty or fraud immediately to their supervisor, auditor, the City's Legal department and/or the City's Human Resources department. Supervisors, when made aware of such potential acts by subordinates, must immediately report such acts to their supervisor and/or Human Resources who coordinates all investigations with Legal and others. Any reprisal or retaliation against any employee or other reporting individual because that individual, in good faith, reported a potential violation is strictly forbidden.

The reporting individual should be informed of the following:

- To not contact the suspected individual in an effort to determine facts or demand restitution.
- To not discuss the case, facts, suspicions or allegations with anyone unless specifically asked to do so by Human Resources or Legal.

Great care must be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations or alerting suspected individuals that an investigation is under way. Due to the important yet sensitive nature of the suspected violations, effective professional follow up is critical. Managers, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstances perform any investigative or other follow up steps on their own. All relevant matters, including suspected but unproved matters, should be referred immediately to Human Resources.

Please refer to section 2.24 of the City's personnel policies for information relating to Whistleblower Protection and NRS 281.611, Disclosure of Improper Governmental Action.

After consultation with the City Attorney's office, Human Resources shall report all suspected losses to the City's insurance carrier.

Actions Constituting Fraud

For purposes of this policy, the terms fraud, misappropriation and other fiscal irregularities refer to, but are not limited to:

- Any dishonest or fraudulent act
- Theft or other misappropriation of funds, supplies or other City assets
- Impropriety in the handling or reporting of money or financial transactions
- Other irregularities in City records, including the intentional misstatement of financial statements
- Profiteering as a result of insider knowledge of City activities
- Disclosing confidential and proprietary information to outside parties
- Forgery or other alteration of documents

- Accepting or seeking anything of value (limits defined in [Code of Conduct, gift and entertainment policy, other]) from contractors, vendors, or other persons providing services/materials to the City
- Kickbacks
- Destruction, removal or inappropriate use of records, furniture, fixtures, equipment or any City property
- Any other similar acts

Please also refer to Nevada Revised Statutes Chapter 205.

The City specifically prohibits these and any other illegal activities in the actions of its Mayor, City Council, managers, employees and others responsible for carrying out the organization's activities.

Other Irregularities

Other irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by management and the City's Human Resource department as per the City's personnel policy. If there is any question as to whether an action constitutes fraud, contact Human Resources for guidance.

Investigation Responsibilities

Human Resources has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. If the investigation substantiates that fraudulent activities have occurred, Human Resources will issue reports to appropriate designated personnel.

Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with Legal and other appropriate personnel, as will final decisions on disposition of the case.

Confidentiality

Human Resources treats complaints and information received as confidential. Any employee who suspects dishonest or fraudulent activity should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act (see reporting procedure section above).

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know.

Discipline

Discipline shall be pursuant to section 11 of the City's personnel policies.

Administration

Human Resources is responsible for the administration, revision, interpretation and application of this policy. The policy will be reviewed annually and revised as needed.

Reported Incident Follow Up Procedure

Care must be taken in the follow up of suspected misconduct and dishonesty to avoid acting on incorrect or unsupported accusations, to avoid alerting suspected individuals that follow up and investigation is underway, and to avoid making statements which could adversely affect the City, an employee, or other parties.

Accordingly, the general procedures for follow up and investigation of reported incidents are as follows:

1. Employees must immediately report all factual details as indicated above under Policy.
2. Human Resources has the responsibility for follow up and, if appropriate, investigation of all reported incidents.
3. All records related to the reported incident will be retained.
4. There shall be no communication with the suspected individuals or organizations about the matter under investigation.
5. In appropriate circumstances and at the appropriate time, Human Resources will notify the employee's supervisor and/or department head.
6. Human Resources will notify the City Manager and Legal of all reported incidents so that it may be determined whether this matter should be brought to the attention of the City Council or reported to law enforcement.
7. Human Resources may obtain the advice of Legal at any time throughout the course of an investigation or other follow up activity on any matter related to the report, investigation steps, proposed disciplinary action or any anticipated litigation.
8. Neither the existence nor the results of investigations or other follow up activity will be disclosed or discussed with anyone other than those persons who have a legitimate need to know in order to perform their duties and responsibilities effectively.
9. All inquiries from an attorney or any other contacts from outside of the City, including those from law enforcement agencies or from the employee under investigation, should be referred to Human Resources or Legal.

Authorization for Investigating Suspected Fraud

Properly designated members of the investigative team will have:

- free and unrestricted access to relevant City records and premises, whether owned or rented
- the authority to examine, copy and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities (whether in electronic or other form) without the prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of investigative or related follow up procedures.

All investigations of alleged wrongdoing will be conducted in accordance with applicable laws and City procedures.

Negotiations

No City official, member of management, employee or other has the authority to negotiate without the City Attorney’s review and approval.

Questions or Clarifications Related to This Policy

All questions or other clarifications of this policy and its related responsibilities should be addressed to Human Resources, who shall be responsible for the administration, revision, interpretation and application of this policy.

Section 2. This Resolution shall take effect on this 2nd day of August, 2017, the public welfare requiring it.

PASSED, APPROVED AND ADOPTED this _____ day of August, 2017, by the following vote of the council:

AYES: _____ NAYS: _____ ABSTENTIONS: _____ ABSENT: _____

FERNLEY CITY COUNCIL

By: _____
Roy Edgington, Mayor

ATTEST:

Kim Swanson, City Clerk