

SECTION 52

SUBJECT: ANTI-FRAUD & WHISTLEBLOWER PROTECTION POLICY

52.1 Policy Statement – Anti-Fraud

This Policy shall be referred to as the “City of Winter Springs’ Fraud Policy.”

The City of Winter Springs (“City”) is committed to preventing fraud and maintaining an environment in which internal controls can be established and improved to aid in the detection and prevention of fraudulent activities by City employees, officials, contractors, vendors, citizens, and other agencies or entities that have a business relationship with the City. Additionally, the intent of this policy is to provide a mechanism for employees or other persons to provide information or complaints related to suspected incidents of fraudulent activity.

Employees may be subject to disciplinary action up to and including dismissal as a result of their participation in or commission of any fraudulent act, or for the intentional false reporting of fraud in accordance with the City’s disciplinary policies and procedures.

52.2 Definition

For the purposes of this Fraud Policy, Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it for personal benefit. Fraud includes the theft of or intentional waste or abuse of City funds, property, or time.

The terms “fraud” and “fraudulent activity” as used in this Fraud Policy, shall include, but shall not be limited to, the following:

1. Any dishonest or fraudulent act, including forgery or the alteration of any document.
2. Misappropriation of funds, securities, supplies, or any other asset.
3. Improper handling of money or reporting of financial transactions.
4. Deriving personal benefit as a result of inside knowledge.
5. Intentional and unlawful destruction or disappearance of records, furniture, fixtures, or equipment.

6. Improperly accepting or seeking anything of material value from vendors or persons providing services or materials to the City for personal benefit.
7. Any computer-related activity involving the creation, alteration, destruction, forgery, or manipulation of data for fraudulent purposes or any misappropriation of City-owned software.
8. Abuse of City time, such as unauthorized time away from work or use of City time for personal business.
9. Unauthorized use of City property or records.

10. Falsification, theft, unauthorized removal, or intentional destruction of City records.
11. Neglecting or subverting job responsibilities in exchange for an actual or promised reward.
12. Any similar or related conduct deemed a violation of applicable law.

Notwithstanding the aforementioned, the personal use of City equipment, materials, tools, supplies, and similar, is governed by the City's Personnel Policy.

52.3 Applicability

Every City employee, officer and volunteer is responsible for the detection and reporting of suspected incidents of fraudulent activities by City employees, officials, contractors, vendors, citizens, and other agencies or entities that have a business relationship with the City. This Fraud Policy applies to all employees, officers and volunteers of the City of Winter Springs provided that, if this Fraud Policy conflicts with any collective bargaining agreement or state statute, including but not limited to the Policeman's Bill of Rights, Firefighters' Bill of Rights, or City Charter/Ordinances, the conflicting agreement, statute, Charter, or Ordinance shall prevail.

52.4 City Manager's Responsibilities

The City Manager shall be designated as the individual charged with investigations initiated pursuant to this Fraud Policy. Upon notification of a possible fraudulent act or practice, the City Manager shall determine the extent of any potential criminal activity. If any potential prosecutable criminal activity exists, the Winter Springs Police Department or other applicable law enforcement agency or agencies will conduct the investigation. In every case, the City shall cooperate fully with the investigation and

prosecuting authorities. If no potentially prosecutable criminal activity exists, the City Manager shall determine the proper City officials who should conduct the investigation under the direction of the City Manager.

The City Manager shall establish a dedicated phone number and email address to be used for reporting fraud pursuant to the Fraud Policy. The City Manager may also establish a written and/or online Reporting Fraud Form. The information reported by the reporting individual should include sufficient and reliable information or evidence in order for an investigation to be opened. Clearly unsupported reports will not be investigated and closed out as unsubstantiated.

To the extent deemed necessary by the City Manager to mitigate against potential fraudulent activities, the City Manager shall have the authority to:

- Take control/limit employee access, and/or gain full access to, all City premises, whether owned or rented.
- Examine, copy, and/or remove all or any portion of the contents of any public/private document from the work area of the employee suspected of fraudulent conduct.
- Suspend or terminate any employee, if appropriate, suspected of fraud during said investigation.

In cases where the City Manager finds evidence of fraudulent activities, the City Manager may secure the services of a forensic fraud auditor to review and verify the findings if necessary given the type and scope of the fraudulent activities involved. These findings shall be coordinated with the City Attorney for possible future legal actions if necessary.

On a case-by-case basis, the City Manager may delegate investigatory responsibility to appropriate City management personnel who shall be required to report to the City Manager and who shall be required to comply with this Fraud Policy. However, the final disposition of the investigation shall be made by the City Manager.

52.5 Director and Manager Responsibilities

It is the responsibility of the Directors and Managers of each City Department to establish internal systems and controls

to provide reasonable assurance of the detection and prevention of fraud. Members of the management team should be familiar with the types of improprieties that might occur within their area of responsibility and should remain alert for any indication of fraudulent activities.

Upon receiving a complaint of fraud from a subordinate employee, Department Directors and Managers shall compile all information provided by the reporting individual and relay such information to the City Manager. The Director or Manager shall cooperate with the City Manager's office during any investigation.

52.6 Employee Responsibilities

All City employees are encouraged to be alert for possible fraudulent activity and are responsible for reporting any suspected violations of this Fraud Policy and/or other unethical practices. Employees shall promptly report any suspected fraudulent activity to the Manager or Director of the Department in which they work, or directly to the City Manager. Employees are encouraged to identify themselves and otherwise cooperate in the fraud prevention process, however employees may remain anonymous if they so desire. Employees must cooperate fully in any investigation.

52.7 City Attorney Responsibilities

To the extent they are directed by the City Manager or City Commission, the City Attorney is authorized to assist in implementing this Fraud Policy.

52.8 City Employee Infractions and Disciplinary Action

Infractions of this Fraud Policy, or filing of false claims, by City employees may result in disciplinary action, which may include suspension, termination, in accordance with the City's disciplinary policies and procedures and/or civil or criminal prosecution.

City employees who have actual knowledge of fraudulent activities and who willfully fail to report fraudulent activities will be subject to disciplinary action, which may include suspension or termination, in accordance with the City's disciplinary policies and procedures.

52.9 Policy Statement - Whistleblower and Retaliation Protection

This Fraud Policy is not intended to replace or conflict with § 112.3187, Florida Statutes (“Whistle-blower’s Act”). It is the City’s intent to protect employees from retaliatory action due to reports of fraudulent activities in accordance with the Whistle-blower’s Act. The Whistle-blower’s Act protects employees and persons who disclose information on their own initiative in a written and signed complaint from retaliatory action by an agency when that person reports to an appropriate agency a violation of law on the part of a public employer or independent contractor that creates a substantial and specific danger to the public’s health, safety, or welfare. Additionally, the Act protects employees reporting improper use of a government office, gross waste of funds, or any other abuse or neglect of duty on the part of an agency, public officer, or employee. However, the Act is not intended to protect employees who knowingly make false accusations regarding violations of this Fraud Policy or who knowingly provide false information in the course of an investigation of a violation of this Fraud Policy.

The City will not retaliate against any employee who engages in whistleblower activities in good faith and consistent with this Fraud Policy. Any whistleblower who believes they are being retaliated against must contact the City Manager or Department Director.

52.10 Confidentiality

The City Manager and members of the City’s management delegated with investigatory responsibility under this Fraud Policy shall, to the extent permitted by law, keep confidential the name, or identity of any individual disclosing information related to fraudulent activities pursuant to this Fraud Policy and all information received or derived from fact-finding investigations conducted pursuant to this Fraud Policy, and the same shall be exempt from public disclosure pursuant to Section 112.3188, Florida Statutes, and any other applicable laws, as amended from time to time.

Employees shall not discuss fraud investigations with anyone without the express authorization of the City Manager or City Attorney, unless required by law.

52.11 Bad Faith and False Accusations

It is the intent of this Fraud Policy to discourage false

accusations that could provide a basis for a lawsuit. The City Manager will not act on any claim that does not provide adequate documentation of fraud.

Specific information is necessary to substantiate and support a full investigation of any reported fraudulent activity. Unsubstantiated and inconclusive allegations, or allegations made in bad faith or with malice, shall not justify a full investigation under this Fraud Policy.

Any person who files a false claim of fraudulent activity in bad faith or with malice may be subject to civil or criminal penalties and if a City employee, the person may be subject to disciplinary action including and up to suspension or termination.

52.12 Reporting Fraud

A City employee or other person who suspects fraudulent activities by City employees, officials, contractors, vendors, citizens, and other agencies or entities that have a business relationship with the City should report the violation by one of the following methods:

A. If anonymity is not desired, any person may file with the City Manager or Human Resources a written and dated statement outlining in detail the suspected fraudulent activity. In addition, a City employee may report the suspected fraudulent activity to the City Manager or anyone in the employee's chain of command including the employee's immediate supervisor or Department Director.

B. If anonymity is desired, any person may report the suspected fraudulent activity on the dedicated phone line or email address established by the City Manager under this Fraud Policy.

C. The City Manager may establish a written and/or online Reporting Fraud Form in order to ensure the necessary information is initially provided so that a proper evaluation can be conducted of any claim of fraudulent activity.

52.13 Conflicts

To the extent that any provision of this Fraud Policy conflicts with state or federal law, the conflicting provision(s) of state or federal law shall apply.