

## **Anti-Fraud and Theft Policy (from Financial Policies Resolution No. 11-28)**

### **Introduction:**

The City of Klamath Falls adopted a fraud and theft policy to establish controls and aid in the prevention and detection of fraud and theft against the City. This policy applies to any actual or suspected fraud or theft involving an employee, city volunteers, elected official, consultant, vendor, contractor, outside agency, or person doing business with the City or in any other relationship with the City.

The City does not tolerate any type of fraud or theft. The City's policy is to promote ethical organizational behavior by:

- assigning responsibility for reporting fraud and theft;
- providing guidelines to conduct investigations of suspected or known fraud or theft; and
- requiring each employee to attend fraud awareness training.

Failure to comply with this policy subjects an employee to disciplinary action, which may include immediate termination. Failure to comply by a consultant, vendor, contractor, outside agency, a person doing business with the City or a person in any other relationship with the City could result in cancellation of the business or other relationship between the entity and the City. The City will pursue criminal prosecution if the results of an investigation indicate criminal activity.

For purposes of this policy, the terms fraud (or fraudulent) and theft are defined below.

### **Definitions and Examples of Fraud and Theft:**

***Fraud*** or ***fraudulent*** means an intentional deception designed to obtain a benefit or advantage or to cause denial of some benefit that is lawfully due. Examples of fraud include:

- Forgery or alteration of a check, bank draft, or any other financial document;
- Theft of a check or other diversion of a payment made to the City;
- Improper or dishonest handling of funds, supplies, or other assets;
- Improper handling or reporting of financial transactions;
- Profiteering as a result of insider knowledge of City operations; and
- Selling or using confidential City information in the conduct of an outside business activity.

***Theft*** means the act of taking something from someone unlawfully. An example of theft is taking equipment or supplies belonging to the City and keeping it for personal use.

### **Responsibility to Report Known and Suspected Fraud or Theft:**

Each employee and city volunteer is required to report any known or suspected fraud or theft to the employee's or volunteer's supervisor or to the [Ethics Officer](#). If not reported to the Ethics

Officer, the supervisor is required to report suspected fraud or other dishonest conduct, including reports from other employees or individuals, to the Ethics Officer.

Each elected official is required to report any known or suspected fraud or theft to the Ethics Officer or the City Manager.

The supervisor does not have the authority to determine the merits of a report of known or suspected fraud or theft; only the Ethics Officer makes this determination.

To the extent possible, the identity of an employee or complainant who reports known or suspected fraud or theft will be protected to the full extent allowed by law. The City will not tolerate any form of retaliation against individuals providing information concerning known or suspected fraud or theft.

### **Guidelines for Handling a Report of Known and Suspected Fraud or Theft:**

The reporting individual shall follow the following guidelines:

- Do not contact the suspected individual in an effort to determine facts or demand restitution.
- Allow the Ethics Officer to conduct the investigation. Do not further investigate the allegations.
- Observe strict confidentiality. Do not discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by the Ethics Officer.

### **Responsibility of Ethics Officer and Guidelines for the Investigation of Known and Suspected Fraud or Theft:**

The Ethics Officer is the City Attorney, subject to the authority of the City Manager to appoint a replacement. On receiving a report of known or suspected fraud or theft, the Ethics Officer shall document the contact and conduct a preliminary investigation to determine the credibility of the report. If the report is credible, the Ethics Officer shall follow the investigation guidelines provided below.

The Ethics Officer shall make every effort, within the limitations of Oregon Public Records Law, to protect the rights and the reputations of everyone involved in a report of suspected fraud or theft, including the individual who in good faith alleges perceived misconduct, as well as the alleged violator(s). The Ethics Officer also shall make every effort to protect the identity of a person who in good faith reported the suspected fraud. However, disciplinary action may be taken as provided by this policy if a report is made in bad faith.

On determining that a report is not credible or is not a report of fraud or theft, the Ethics Officer shall document this determination and report the determination to the person(s) reporting the perceived misconduct and the alleged violator(s). The Ethics Officer is responsible for reporting confirmed fraud or theft to the proper law enforcement officials.

The Ethics Officer is responsible for the administration, interpretation, and application of this policy.

The Ethics Officer has primary responsibility for the investigation of reported wrongdoing and all suspected fraud or theft and for coordinating investigative activities with the City's Finance or Human Resources Director, whichever is applicable. Each employee involved in an investigation of suspected fraud or theft shall keep the content of the investigation confidential to the extent provided by law. Unless the Ethics Officer determines the allegation is not credible or the actions do not constitute theft or fraud, investigation results shall not be disclosed or discussed with anyone other than those who have a legitimate need to know.

Any required investigative activity shall be conducted without regard to the suspected wrongdoer's length of service, position/title, relationship to the City, or any other perceived mitigating circumstance.

The Ethics Officer shall maintain appropriate documentation regarding incidents of fraud or theft. The Ethics Officer shall develop and maintain guidelines for access to and security of this documentation.

If an investigation substantiates fraudulent activities, the Ethics Officer will prepare an incident report and:

- If the violator is an employee, provide the report to the violator's supervisor, the Department Director, and the Human Resources Director; and if the violator is in the AFSCME union, the AFSCME Legal Counsel for appropriate disciplinary action.
- If the violator is a city volunteer, provide the report to the appointing official for appropriate action.
- If the violator is an elected official, provide the report to the Mayor or Council President (as appropriate), the City Manager and the City Attorney for appropriate dissemination, such as to the Oregon Government Ethics Commission or District Attorney, and for appropriate action.
- If the violator is someone other than an employee or elected official, provide the report to the City Manager and City Attorney for appropriate sanctions.

The Ethics Officer shall prepare the report as soon as possible after the fraud or theft is confirmed and shall document the content of the investigation, the findings, and any recommended actions. Once appropriate actions have been taken, the Ethics Officer shall prepare a final report for the City Manager and City Attorney, including a summary of the investigation, the findings, and the disciplinary actions or other actions taken in response to the substantiated report of fraud or theft.

### **Disciplinary Action:**

Failure to comply with any part of this policy is grounds for disciplinary action, which may include immediate termination. These disciplinary sanctions shall not apply to elected officials, who may only be removed from office by recall vote and may only be sanctioned by action of

the City Council. These disciplinary sanctions shall not apply to city volunteers, who may be removed by the appointing official.

An employee who:

- has engaged in any form of fraud or theft;
- suspects or discovers fraudulent activity and fails to report his or her suspicions as required by this policy; or
- intentionally reports false or misleading information,

is subject to disciplinary action, which may include termination.

Any supervisor who does not submit to the Ethics Officer each and every report of suspected fraud or theft made by an employee or other person is subject to disciplinary action, including immediate termination.

### **Fraud Awareness Training:**

Each employee is required to attend at least one session of Fraud Awareness Training every three years. Those in financial positions must have a refresher course each year. After attending the training, the employee must sign a form indicating that they have attended the training and understood its content. These forms will be filed in the Employee's personal file. Training will be conducted by the Finance Department, facilitated by the HR Department, and tracking for completion will be done by the HR Department.

### **Annual Report:**

Incidents of suspected fraud or theft determined by the Ethics Officer shall be reported to the Audit Committee on an annual basis. The annual report shall include: the status of the reporting person (e.g., employee, citizen, vendor, contractor, etc.); the determination of merit; whether a full investigation was conducted and if so, the results of the investigation; the disciplinary action, if any resulting from the investigation; whether the report was referred to an outside entity and if so, the current status or final results of the referral.