
Subject: FRAUD AND ABUSE BY COMMISSION APPOINTEES**Date: July 16, 2012**

No. 10.7

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INTRODUCTION AND PURPOSE:

A Fraud and Abuse Policy is a relatively easy and inexpensive way to discourage integrity violations and encourage early reporting while assuring a fair and consistent response.

The purpose of this policy is three fold:

1. To initiate proactive practices to discourage fraud and abuse by City Commission Appointees;
2. To assure a fair, structured and consistent approach to investigations of Appointees suspected fraud and abuse; and
3. To establish a policy to govern the process to be followed by the City Commission, Administrative Committee, and Audit Committee when responding to allegations of fraud and abuse by Appointees. By having an established policy, the City Commission is able to institutionalize the investigative process and reduce the role of personalities in decisions regarding each case.

Reasons for having a policy include:

- To assure confidentiality and protection of the integrity and reputation of innocent Appointees.
- To raise awareness of Commissioners and Appointees and encourage accountability.
- To establish responsibility for detection and investigation.
- To promote an atmosphere of honesty throughout the City.
- To reduce the opportunity for discrimination.
- To reduce confusion and assure a complete, professional investigation conducted by those with proper training.
- Reduce the opportunity for compromising the investigation through mishandling an allegation.
- Reduce the opportunity for successful litigation by suspected party.

SCOPE:

The City of Kalamazoo must identify and promptly investigate any possibility of fraudulent or abusive activities in the handling of City money, documents and assets involving Appointees with City personnel, vendors, agencies or other parties. All Appointees share a responsibility for reporting any possible dishonest or fraudulent activity.

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Any Appointee found to have committed a dishonest or fraudulent act in relation to the City's financial affairs is subject to disciplinary action by the City and investigation by law enforcement agencies, when warranted. Described herein are the steps to be taken when fraud, misappropriation, and similar dishonest activities are suspected. The policy also includes the procedures to follow for any missing funds, restitutions, and recoveries.

POLICY:**I. Definitions**

- A. Fraud – a type of illegal act involving the obtaining of something of value through intentional misrepresentation.
- B. Abuse – 1) soliciting, or accepting, or agreeing to accept any benefit illegally; or 2) theft of City property, official misconduct, or misuse of City information.
- C. Appointees – the City Commission appointed employees as defined in the City Charter. *“The City Commission shall elect a City Manager, City Clerk, City Attorney, and City Assessor, and Internal Auditor, all of whom, except as otherwise provided in this Charter, shall hold office at the pleasure of the City Commission.”*

II. Examples of Fraud and Abuse (including, but not limited to)

- A. Forgery or fraudulent alteration of documents (checks, promissory notes, time sheets, personnel records, independent contractor agreements, purchase orders, contracts, budgets, etc.).
- B. Intentional misrepresentation of information on documents.
- C. Misappropriation of funds, securities, supplies, or other assets (including furniture, fixtures or equipment).
- D. Improprieties in the handling or reporting of monetary transactions.
- E. Intentionally authorizing or receiving payments for goods not received or services not performed.
- F. Knowingly authorizing or receiving payments for hours not worked.
- G. Any criminal violation of Federal, State, or Local laws, even if not work-related.
- H. Stealing, embezzling, converting, or intentionally misapplying funds, securities, supplies or other assets of the City.
- I. Receiving or soliciting bribes or kickbacks from vendors.

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- J. Intentional misrepresentation of business expenses.
- K. Manipulation, falsification or fraudulent alteration of accounting records or supporting documents from which financial statements are prepared.
- L. Intentional damage or unauthorized use of City property.
- M. Conspiracy between two or more persons to defraud.
- N. Concealment of any fraudulent scheme by a false statement.
- O. Using a computer to gain unauthorized access to City records.
- P. Knowledge of fraud without making such information known to the appropriate authorities.
- Q. Any similar or related activity.

III. Discouraging Fraud and Abuse

- A. Appointees are responsible for educating themselves and their staff about fraud and abuse, as well as how to detect and report suspected fraudulent activities.
- B. The City Commissioners are responsible for establishing, maintaining and disseminating appropriate City Commission policies and guidelines regarding appropriate Appointee conduct.

IV. Investigation

Investigating, documenting and reporting suspected and proving dishonest or fraudulent activities provide the following:

- A sound foundation for the protection of the innocent.
- Appropriate judicial action when warranted by the facts.
- A basis for risk management of claims and civil litigation seeking recovery.

Unfortunately, despite proactive efforts to discourage fraud and abuse, situations may arise in which fraud or abuse is suspected. As soon as a violation of this policy is detected or suspected, the City Commission Audit Committee should be contacted immediately.

The Audit Committee is responsible for the direction of the investigation of any suspected violation by an Appointee, and will coordinate all investigations with an Investigation Team. An Investigation Team will be hired or appointed by the Audit Committee to review information and determine what investigative actions are necessary and appropriate. It is understood Public Safety will be responsible for criminal investigations when warranted. It is also understood that any

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Appointee(s) suspected of fraud or abuse will not be part of the Investigation Team.

A. Mission Statement for the Investigation Team

In order to foster an environment that promotes business with integrity and to protect City assets and the reputation of honest, innocent Appointees, the Investigation Team and the Audit Committee will utilize the unique skills of appropriate personnel and Public Safety (if necessary) to evaluate and resolve all allegations of improper business conduct and practices as defined in this policy, of all City Commission Appointees.

B. Problems Recognition and Planning

The Audit Committee members are available and receptive to receiving relevant information on a confidential basis and should be contacted directly whenever a dishonest or fraudulent activity is suspected of an Appointee.

The investigation begins when the Audit Committee is made aware of a possible situation of fraud or abuse and directs an Investigation Team to begin an investigation. This may come from a tip, from another department, or from an audit. Upon appointment of the Investigation Team, the Team will investigate the alleged fraud or abuse, and present the information to the Audit Committee. The important point is that there must be legitimate reason to believe that fraud or abuse exists.

THE INVESTIGATIVE PLAN SHOULD INCLUDE:

- Request for investigator(s), listing specific expertise needed.
- Other resources which may be required.
- The Investigation Team will be responsible for coordinating the investigation with the Audit Committee and keeping the Audit Committee advised of the progress of the investigation.
- The Investigation Team should inform the Audit Committee of any potential weaknesses regarding City internal controls.

Investigations will be initiated with the objectives of determining the existence of fraud or abuse, identifying the individual(s) accountable for violations, protecting the reputation and integrity of City Appointees, and supporting remedial actions by the City in cases of actual violations.

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C. Evidence Gathering

The Investigation Team will have full and unrestricted access to all necessary records and personnel. All City furniture and contents, including desks, computers and phones are open to inspection. There is no reasonable expectation of privacy by the Appointees, when using City resources and property. Every effort should be made by the Team to aid in the recovery of City losses. Such efforts will be determined by the Investigation Team and the Audit Committee.

D. Communication of Results

The Audit Committee will be responsible for notifying the full City Commission of any allegations regarding a City Commission employee.

If an Investigation Team is appointed, a report of the investigation including any findings and recommendations, or lack thereof, will be reviewed by the Audit Committee and forwarded to the full City Commission.

V. Responsibility of Appointees to Deter Fraud and Abuse

Deterrence of fraud and abuse is the responsibility of all Appointees. All Appointees are responsible for obtaining training, becoming knowledgeable about this policy and should be familiar with the types of improprieties that might occur in his or her area of responsibility and be alert for any evidence that improper activities, misappropriation, dishonest activity, fraud or abuse, is or was in existence.

If improper activities are detected or suspected, Appointees should contact the City Manager, if it involves a City staff member. If the improper activities involve an Appointee, Appointees should contact the Audit Committee. The Audit Committee will determine if an investigation of a City Appointee is required, and whether outside investigators will be required. Confidentiality and discretion should be used throughout any investigation to protect the reputation of any potentially innocent Appointee.

Non-intrusive review of records or documents to determine if there is possible validity to a suspected improper act is not intended to be prohibited. However, it is preferred that the appropriate person(s) conduct an investigation of any

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suspected fraudulent activity or abuse while working under the direction of an assigned Investigation Team.

It is required that all Appointees support the City Commissioners' Policy Governing Fraud and Abuse and cooperate fully with any Investigation Team in the detection, reporting and investigation of fraud and abuse, as well as of criminal acts, including possible criminal prosecution of suspects of criminal activity.

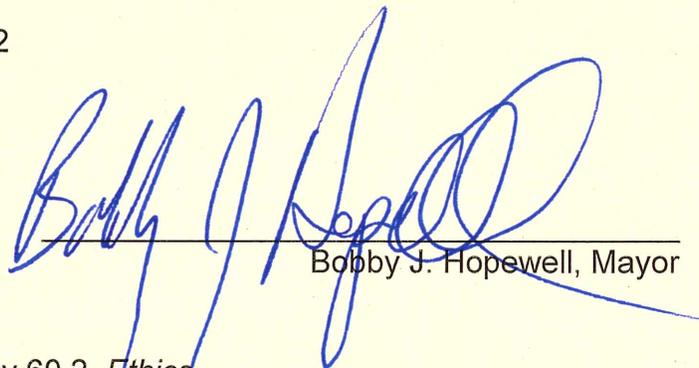
VI. Accounting for Loss, Restitution, and Recovery

The department incurring the loss from a dishonest or fraudulent act will suffer the loss until the monies can be recovered through insurance or restitution. The Budget and Accounting Division will be notified by the Audit Committee of any loss, and will record said loss and any restitution in accordance with generally accepted accounting practices.

VII. Cost of Recovering Funds

There is no special fund to recover the costs or recovery, such as hiring special investigators or outside legal counsel. These expenses will be budgeted and paid from an appropriate fund.

EFFECTIVE DATE: July 16, 2012



Bobby J. Hopewell, Mayor

SEE ALSO: Administrative Policy 60.2, *Ethics*
Human Resources Policies and Procedures Manual, Section VIII,
Ethics

HISTORY:

July 16, 2012 The City Commission adopted Policy 10.7, *Fraud and Abuse by City Commission Appointees*