

RESOLUTION NO 2012-48

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF TARPONS SPRINGS ADOPTING A CODE OF ETHICS POLICY AND A FRAUD, WASTE, ABUSE, AND WHISTLEBLOWER PROTECTION POLICY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Tarpon Springs received an audit recommendation by the City's external audit firm in their Management Letter dated March 19, 2012, and.

WHEREAS, it has been recommended that a Code of Ethics be adopted to help avoid unfavorable consequences that would arise from actions contrary to the City's standard of conduct, and

WHEREAS, it has also been recommended that a Fraud and Whistleblower policy be adopted to provide a mechanism for individuals both internally and externally to report possible violations of law or fraud confidentially.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA:

Section 1. The Board of Commissioners adopts the policy attached to this resolution as Exhibit "A" as the City's Code of Ethics and the policy attached to this resolution as Exhibit "B" as the City's Fraud, Waste, Abuse, and Whistleblower Policy.

Section 2. This Resolution shall become effective immediately upon final passage and adoption.

David O. Archie

DAVID O. ARCHIE, MAYOR

Chris Alahouzos

CHRIS ALAHOUZOS, VICE MAYOR

Susan Slattery

SUSAN SLATTERY, COMMISSIONER

Jeff Larsen

JEFF LARSEN, COMMISSIONER

Townsend Tarapani

TOWNSEND TARAPANI, COMMISSIONER

MOTION BY: COMMISSIONER SLATTERY

SECOND BY: COMMISSIONER ALAHOUZOS

VOTE ON MOTION

COMMISSIONER TARAPANI Yes

COMMISSIONER LARSEN Yes

COMMISSIONER SLATTERY Yes

VICE MAYOR ALAHOUZOS Yes

MAYOR ARCHIE Yes

ATTEST:

Irene S. Jacobs
IRENE S. JACOBS, CMC
CITY CLERK & COLLECTOR

APPROVED AS TO FORM:

James C. Yacavone III
JAMES YACAVONE, III
CITY ATTORNEY

Exhibit A

PERSONNEL MANUAL
POLICIES AND PROCEDURES SECTION
CODE OF ETHICS
POLICY NUMBER 31

POLICY STATEMENT AND PURPOSE

It is the policy of the City of Tarpon Springs that all elected officers, appointed officers, employees and volunteers of the City are public servants of the people and hold their positions for the benefit of the public. These public servants shall perform their duties efficiently and faithfully under the laws of the federal, state and local governments. Such officers, employees and volunteers shall strive to meet the highest standards of ethics consistent with this Code regardless of personal considerations, recognizing that maintaining the respect of the people must be their foremost concern. They will consistently exhibit conduct that credits the City government, public officials, employees and themselves. Each is responsible for demonstrating the highest standards of trust, honesty and integrity in order to maintain public confidence. This Code of Ethics is intended as a guide in common situations; special circumstances will be handled on a case-by-case basis.

ADHERENCE TO ETHICS LAWS

Nothing in this policy shall relieve officers, employees and volunteers of the City from strict compliance with federal, state and local ethics laws, particularly Florida Statute 112, PART III – *Code of Ethics for Public Officers and Employees*.

DEFINITIONS

Appointed officer or official means any person appointed to a public board of the City.

Elected officer or official means any person elected to any City office.

Employee means any individual, other than an elected official, receiving compensation for services performed for the City (except individuals who perform services as independent contractors), whether part-time, full-time, regular or temporary.

Volunteer means any individual who performs services for the City without compensation, either tangible or intangible.


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Exhibit A

GENERAL PROVISIONS

For the purposes of this section the term "City representative" refers to appointed and elected officials, employees and volunteers.

1. Gifts and Gratuities

City representatives are prohibited from soliciting or accepting "anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action or judgment of the City representative would be influenced thereby." (Sec. 112.313(2), Fla. Stat.)

City representatives shall not accept gifts, gratuities or loans from organizations, business concerns or individuals with whom the representative has official relationships on business of the City government. These limitations are not intended to prohibit the acceptance of articles of negligible value which are distributed generally, nor to prohibit City representatives from accepting social courtesies, which promote the good public relations, nor to prohibit city representatives from obtaining loans from regular lending institutions. Inspectors, contracting officers and enforcement officers shall guard against relationships which might be construed as evidence of favoritism, coercion, unfair advantage or collusion.

Exceptions to this section include:

- ◆ Gifts that otherwise comply with Florida Statute 112 and advance the City representative's professional knowledge or enhance job performance and are specifically approved by the representative's respective 'supervisor'.
- ◆ Social courtesies offered to all persons attending a group function.

2. Conflict of Interest

"Conflict of interest means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest." (Sec. 112.312(8), Fla. Stat.) Conflict of interest rules shall be in accordance with the established State laws. No City representative shall utilize their position with the City to acquire goods or services for their personal use with a business or agency with which the City conducts business that would not be offered to the general public.


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Exhibit A

3. General Compliance with Florida Statute 112.313

- a) No City representative shall use or attempt to use their position to secure special privileges or exemption for themselves or others, except as may be provided by policy and/or law.
- b) No City representative shall accept employment or engage in any business or professional activity in which they might reasonably expect would require or induce them to disclose confidential information acquired by reason of their official position.
- c) No City representative shall disclose confidential information gained by reason of their official position nor shall any such representative otherwise use such information for personal gain or benefit.
- d) If a City representative is an officer, director, agent or member of, or owns controlling interest in any corporation, firm partnership or other business entity which is subject to the regulation of the City, or other political subdivision of the state, that representative shall file a sworn statement to this effect with the Circuit Court of the County.
- e) No City representative shall transact any business in their official capacity with any business entity of which they are an officer, director, agent, or member, or in which they own a controlling interest.
- f) No City representative shall have personal investments in any enterprise which will create a substantial conflict between that representative and the public interest.

4. Use of City-owned Assets

City-owned equipment, facilities, vehicles or property shall not be used for any reason other than City business, except as otherwise provided for by statute, contract or City rules/policies.

5. Employment

No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provisions of City/Civil Service rules or in any manner commit or attempt to commit any fraud preventing the impartial execution of those rules.


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Exhibit A

Nor person shall directly or indirectly give, render, pay, offer, solicit or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage, to a position in the City service.

No employee of the Human Resources Department, other City department, an examiner or other person involved in matters affecting City human resources administration shall deceive or obstruct any person in their right to examination, eligibility, certification or appointment under City/Civil Service rules, or to furnish to any person any special or confidential information for the purpose of affecting the rights or prospects of any person with respect to employment in the City service. Any officer or employee who knowingly violates the provisions of this section shall be subject to discipline, up to and including termination.

PROCEDURE

When a representative of the City has any doubt as to the application of this policy as it relates to them, they should discuss the matter with their department head, City Manager or City Attorney.

Any City representative who observes improper or illegal action by any representative of the City has an obligation to report the action to their Department Head or Human Resources Department or City Manager.

Any violation of the provisions of this policy shall be subject to review and appropriate disciplinary action in accordance with the City's disciplinary rules and/or the provisions of Florida Statute 112.


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Exhibit B

PERSONNEL MANUAL
POLICIES AND PROCEDURES SECTION
FRAUD, WASTE, ABUSE AND WHISTLEBLOWER PROTECTION POLICY NUMBER 32

POLICY STATEMENT

The City of Tarpon Springs is committed to enforcement of and adherence to all applicable laws, rules and regulations (federal, state and City), as well as the detection and elimination of acts of violations of law on the part of the City or independent contractor of the City that creates a substantial and specific danger to the public's health, safety or welfare as well as to the improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of the City, its officers and its employees. This policy applies to any irregularity, or suspected irregularity involving employees as well as consultants, vendors, contractors and any other individual or business with a relationship with the City of Tarpon Springs.

The intent of this policy is to provide a mechanism for employees to provide information or complaints, even when the information or complaint may not be the reporting of illegal activity. It is further the intent of this policy to prevent retaliatory action against employees who report to the appropriate individual any violation of or suspected violation of any federal, state, or local law, rule or regulation committed by an employee or agent of the City or independent contractor which creates a substantial and specific danger to the public's health, safety or welfare as well as to the improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of the City, its officers and its employees.

This policy does not replace the State of Florida's *Whistleblower Act* (Florida Statute 112.3187).

DEFINITIONS

The term *fraud* refers to any dishonest or deceitful act, including but not limited to, forgery or alteration of any document; misappropriation of funds, supplies, etc.; improper handling or reporting of money or financial transactions; profiting by self or others as a result of inside knowledge; destruction or intentional disappearance of records, furniture, fixtures or equipment; accepting or seeking anything


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Exhibit B

of material value from vendors or persons providing services or materials to the City for personal benefit; and/or any similar or related irregularity.

Waste refers to the unnecessary incurring of costs as a result of inefficient practices, systems or controls.

Abuse refers to violations and evasion of departmental regulations which weakens the effectiveness and efficiency of operations.

REPORTING RESPONSIBILITIES

Every City employee is responsible for the detection and prevention of fraud, misappropriations and other irregularities in the City. Employees must report any suspected violations immediately and cooperate *fully* in any investigation.

Violations that must be reported include, but are not limited to:

- Any dishonest or fraudulent act
- Theft of money or property
- Forgery
- Misappropriation of funds, securities, supplies or other assets
- Impropriety in the handling or reporting of money or financial transactions
- Profiteering as a result of insider knowledge of City activities
- Accepting or seeking anything of material value from contractors, vendors or persons providing services to the City
- Misrepresentation or falsification of information concerning an injury/incident on the job
- Destruction, removal or inappropriate use of records, furniture, fixtures and equipment
- Any similar or related irregularity

WHISTLEBLOWER PROTECTION

The City will not dismiss, discipline, or take any other adverse personnel action against any employee for disclosing information in good faith pursuant to this policy. Any employee who knowingly makes false statements may be disciplined up to and including termination.


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Exhibit B

REPORTING PROCEDURES

1. Florida law provides that the name or identity of a person who reports suspected fraud, waste or abuse by an employee or agent of the City or an independent contractor of the City to the City Manager may not be disclosed to anyone but the City Manager's staff without the express written consent of the person if :

a. The person alleges that an employee or agent of the City or of an independent contractor of the City (a) has violated or is suspected of having violated any federal, state, or local law, rule, or regulation, thereby creating and presenting a substantial and specific danger to the public's health, safety, or welfare, or (b) has committed an act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty; and

b. The allegation is made in good faith.

The only exception to this rule is if the City Manager determines that: the disclosure of the person's identity is necessary to prevent a substantial and specific danger to the public's health, safety, or welfare or to prevent the imminent commission of a crime; or the disclosure is unavoidable and absolutely necessary during the course of the audit, evaluation, or investigation.

2. A current or former City employee, private citizen or vendor who suspects fraud, waste or abuse should submit a detailed, written, signed statement, outlining the suspected fraud to The City Manager, at the address below and include your contact information:

City of Tarpon Springs
Attention: City Manager
324 E. Pine Street
Tarpon Springs FL 34689

CONFIDENTIAL


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3. The City is responsible for conducting investigative audits of all suspected inappropriate activity. All information received will be treated with confidentiality to the extent possible. The reported fraud, waste or abuse will be fully investigated and evaluated. If an investigation results in a recommendation to discipline an individual, the recommendation and disciplinary action will be in accordance with the City's *Personnel Rules and Regulations – Rule 18*. Decisions to prosecute or refer the investigative results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made by the City Manager, as will final decisions of disposition of the case.

POLICY COMPLIANCE

All employees and City officials are required to sign an acknowledgement of the *Fraud, Waste, Abuse and Whistleblower Protection Policy* and agree to abide by it. The acknowledgement forms will be maintained in each personnel file.

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