

CITY OF SANDY OAKS, TEXAS

ORDINANCE NO. 2017-75

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS ADOPTING A FRAUD PREVENTION AND DETECTION POLICY.

WHEREAS, the City Council of the City of Sandy Oaks, Texas ("City") recognizes the need to effectively monitor and oversee the procedures for use of City funds and inventory; and

WHEREAS, the City Council realizes that well planned internal controls are the best method of preventing fraud; and

WHEREAS, having reporting and investigative systems in place will allow easier and more effective handling of any suspected fraud within City operations;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SANDY OAKS, TEXAS:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 2. Adoption of Fraud Prevention and Detection Policy. The City of Sandy Oaks ("City") adopts the attached Fraud Prevention and Detection Policy ("Policy"), attached hereto as Exhibit A and incorporated by reference, with the commitment to preventing fraudulent use of City funds or inventory.

Section 3. Implementation. All procedures and requirements of the Policy shall be implemented as outlined in Exhibit A.

Section 4. Severability. Should any sentence, paragraph, subdivision, clause, phrase or section of the Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of this Ordinance as a whole.

Section 5. Effective Date. This Ordinance shall take effect immediately from and after its passage.

PASSED, ADOPTED and APPROVED this 8th day of June, 2017.

CITY OF SANDY OAKS, TEXAS

Karen Tanguma

Karen Mendiola Tanguma, Mayor

Karen Mendiola Tanguma

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ATTEST: *Charlotte Rabe*
Charlotte Rabe, City Clerk

CITY OF SANDY OAKS, TEXAS

FRAUD PREVENTION AND DETECTION POLICY

SECTION 1. INTRODUCTION.

The City of Sandy Oaks ("City") is committed to preventing fraud and protecting its revenue, property, information and other assets from any attempt by elected officials, appointed committee/commission/board members and employees of the City, as well as any individual or entity doing business with the City such as contractors, vendors and agents. All City employees must share in this commitment. City employees, especially supervisors, department heads, officers and elected officials, must be aware of the circumstances, or "red flags," that lead to fraud. For the purpose of this administrative procedure, fraud and internal waste are referred to as "fraud."

SECTION 2. BACKGROUND.

Studies have shown that "red flags" of fraud within an organization were ignored by the organization in almost half of the frauds reported. Downsizing and repositioning in an organization increase the risk of fraud. Internal controls are the best method of preventing fraud. Poorly written or poorly enforced internal controls allow fraud to occur.

Fraud occurs for the following reasons (there may be multiple reasons in some cases):

- a. Poor internal controls;
- b. Management override of internal controls;
- c. Type of organization;
- d. Collusion between employees and third parties;
- e. Poor or non-existent ethical standards; or
- f. Lack of control over employees by their supervisors.

The most frequent cited "red flags" of fraud are:

- a. Changes in an employee's lifestyle, spending habits or behavior;
- b. Poorly written or poorly enforced internal controls, procedures, policies, or security;
- c. Irregular/unexplained variances in financial information;
- d. Inventory shortages;
- e. Failure to take action on results of internal/external audits or reviews;
- f. Unusually high expenses or purchases;
- g. Frequent complaints from customers;
- h. Missing files; and
- i. Ignored employee comments concerning possible fraud

Perpetrators of fraud typically live beyond their reasonably available means. Other indicators of fraud include the borrowing of small amounts of money from co-workers, collectors or creditors appearing at the place of business, excessive use of telephone to stall creditors, falsifying records, refusing to leave custody of records during the day, working excessive overtime, refusing vacations, and excessive rewriting of records under the guise of neatness.

The following internal controls help prevent fraud:

- a. Adherence to all organizational procedures, especially those concerning documentation and authorization of transactions;
- b. Physical security over assets such as locking doors and restricting access to certain areas;
- c. Proper training of employees;
- d. Independent review and monitoring of tasks;
- e. Separation of duties so that no one employee is responsible for a transaction from start to finish;
- f. Clear lines of authority;
- g. Conflict of interest statements which are enforced;
- h. Rotation of duties in positions most susceptible to fraud;
- i. Ensuring that employees take regular vacations; and
- j. Regular independent audits of areas susceptible to fraud

SECTION 3. PURPOSE.

The purpose of this administrative procedure is to define what constitutes fraud, and to outline rules and procedures all employees must follow when fraud is suspected.

SECTION 4. SCOPE.

The policy applies to all City employees, department heads, employees, contractors, officers, board/commission/committee members and elected officials. The term "employee" used herein includes employees, supervisors, department heads, officers, elected officials, appointed committee/commission/board members, as well as any individual or entity doing business with the City such as contractors, vendors and agents, unless the context indicates otherwise.

SECTION 5. DEFINITIONS.

- A. Fraud – Theft, intentional waste or abuse of City funds, property or time. Specific examples of fraud include, but are not limited to:
 1. Theft of City funds;
 2. Serious abuse of City time such as unauthorized time away from work or excessive use of City time for personal business;
 3. Unauthorized use or misuse of City property or records;
 4. Falsification of records;
 5. Theft or unauthorized removal of City records, City property or the property of another person (to include the property of employees, clients, customers or visitors);
 6. Willful destruction or damage of City records, City property or the property of other persons (to include the property of employees, clients, customers or visitors); or
 7. Neglecting or subverting job responsibilities in exchange for an actual or promised reward.
- B. City funds – Currency, checks or other negotiable instruments belonging to the City, or for which the City is the fiscal agent or has fiduciary responsibility.

- C. Fraudulent conduct – the use of one’s occupation or position for personal enrichment through the deliberate misuse or misapplication of the City’s resources or assets, or for the personal enrichment of others. Fraudulent conduct and dishonesty may include, but is not limited to:
1. actual financial loss incurred;
 2. damage to reputation of the City;
 3. negative publicity;
 4. cost of investigation
 5. loss of employees;
 6. loss of public confidence;
 7. damaged relationships with City contractors and suppliers; or
 8. litigation and damages employee morale.
- D. City property – Any tangible item owned by the City.
- E. Retaliation – Discrimination against or penalization of an individual for reporting fraud or for cooperating, giving testimony, or participating in any manner in an audit/investigation, proceeding or hearing.
- F. Fraud Investigator - In this context, reference is to any person or persons assigned by the City Administrator in consultation with the City Council (whether a City employee or an individual or firm retained by the City on a contract basis) to investigate any fraud or similar activity.

SECTION 6. RESPONSIBILITIES.

If there is knowledge or suspicion of an act committed in violation of this policy:

Mayor and Aldermen -- If the Mayor or an Alderman has reason to suspect that an incident of fraudulent conduct has occurred, he/she shall immediately contact the City Administrator. The Mayor or Alderman shall not attempt to investigate the suspected incident of fraudulent conduct or discuss the matter with anyone other than the City Administrator. The investigation shall not be discussed with the media by any person other than through the City Administrator in consultation with the City Attorney and the Fraud Investigator, if retained. If a fraud allegation involves the City Administrator or if the City Administrator’s position is vacant, the Mayor and City Council shall select a Fraud Investigator for the purpose of investigating the allegation and reporting the results thereof. The City Council shall select a professional services firm or individual to act as the Fraud Investigator. The Fraud Investigator shall inform the City Council of pertinent investigative findings and results. If a violation of this policy is determined, the City Council will take appropriate corrective and disciplinary action, up to and including dismissal, after consulting with the City Attorney.

Employees – Any employee who has knowledge of an occurrence of fraud, or has reason to suspect fraud has occurred, shall immediately notify his/her supervisor. If the employee has reason to believe that the employee’s supervisor may be involved, the employee shall immediately notify the department head, up to the City Administrator. If the employee has reason to suspect that the City Administrator may also be involved, the employee shall contact the appropriate law enforcement authority. Every employee shall cooperate with administrative investigations pursuant to administrative procedures. The employee shall not discuss the matter with anyone other than his/her supervisor, the department head, City Administrator and the appropriate law enforcement authority. The reporting employee

shall refrain from further investigation of the incident, confrontation with the alleged violator or further discussion of the incident with anyone, unless specifically requested by the City Administrator, Fraud Investigator, City Attorney or law enforcement personnel. Failure to report suspected fraud could result in disciplinary action up to and including termination.

In dealing with suspected dishonest or fraudulent activities, great care must be exercised. Employees should avoid the following:

- a. Incorrect accusations.
- b. Alerting suspected individuals that an investigation is underway.
- c. Unfair treatment of employees.
- d. Making of statements that could lead to claims of false accusations or other offenses.

Supervisors – Upon notification from an employee of suspected fraud, or if the supervisor has reason to suspect that fraud has occurred, the supervisor shall immediately notify the department head or the City Administrator. The supervisor shall not attempt to investigate the suspected fraud or discuss the matter with anyone other than the department head, City Administrator and the appropriate law enforcement authority. However, if the supervisor has reason to believe that the department head or City Administrator may be involved in fraud, the supervisor shall contact appropriate law enforcement authority. Failure to report suspected fraud could result in disciplinary action up to and including termination.

Supervisors shall give full and unrestricted access to all necessary records and personnel. All City property is open to inspection at any time and there is no assumption of privacy.

Department Heads – Upon notification from an employee or supervisor of suspected fraud, or if the department head has reason to suspect that a fraud has occurred, the department head shall not attempt to investigate the suspected fraud or to discuss the matter with anyone other than the City Administrator and the appropriate law enforcement authority. However, if the Department Head has reason to believe that the department head or City Administrator may be involved in fraud, the supervisor shall contact appropriate law enforcement authority. Failure to report suspected fraud could result in disciplinary action up to and including termination.

The Department Head shall give full and unrestricted access to all necessary records and personnel. All City property is open to inspection at any time and there is no assumption of privacy.

City Administrator – The City Administrator shall be responsible for instituting and maintaining a system of internal controls to provide reasonable assurance for the prevention and detection of fraudulent conduct, and other similar irregularities. The City Administrator shall be familiar with the types of improprieties that might occur within their area of responsibility and be on alert for any indications of such conduct.

When an improper activity is detected or suspected, determination should be made of whether an error or mistake has occurred, or if there may be dishonest or fraudulent activity. Upon receipt of any allegation of fraud, the City Administrator shall notify the City Council of such allegation. In notifying

the City Council, the City Administrator shall exercise care to ensure that the City Council is fully aware of the nature of the allegation presented while ensuring that the rights and identity of individuals involved are duly protected. Based upon consultation with the City Council, the City Administrator shall select a Fraud Investigator for the purpose of investigating the allegation and reporting the results thereof. This shall be based upon consideration as to whether City staff has the necessary degree of independence and competence as well as sufficient time available to ascertain the validity of the allegation that has been brought forth. If these qualifications are not met by internal staff, the City Administrator in consultation with the City Council shall select a professional services firm or individual to act as the Fraud Investigator.

The City Administrator is responsible for taking appropriate corrective actions to ensure adequate controls exist to prevent reoccurrence of improper actions. Management shall support the City's responsibilities and cooperate fully with the Fraud Investigator, other involved departments and law enforcement agencies in the detection, reporting and investigation of criminal acts, including the prosecution of offenders.

In the event the City Administrator's position is vacant, the Mayor shall assume the duties of the City Administrator as outlined in this policy.

Internal Audit – Upon notification or discovery of a suspected fraud, the City Administrator will promptly coordinate an investigation of possible fraud with the appropriate law enforcement authority.

Fraud Investigator -- Upon assignment by the City Administrator, the Fraud Investigator shall promptly investigate the fraud. Where there appears to be reasonable grounds for suspecting that a fraud has taken place, the Fraud Investigator, in consultation with the City Administrator and City Attorney, shall contact the appropriate law enforcement authorities.

The Fraud Investigator shall be available and receptive to receiving relevant, confidential information to the extent allowed by law. If evidence is uncovered showing possible dishonest or fraudulent activities, the Fraud Investigator shall proceed as follows:

- a. Discuss the findings with the City Administrator and the department head, if appropriate.
- b. Advise supervisors or department heads, if the case involves staff members, to meet with the City Administrator (or designated representative) to determine if and the extent of disciplinary actions to be taken.
- c. Report to the City's external auditor of such activities in order to assess the effect of the illegal activity on the City's financial statements.
- d. Coordinate with the City's Administrator regarding notifications to insurers and filing of insurance claims.
- e. Take immediate action, in consultation with the City Attorney, to prevent the theft, alteration or destruction of evidentiary records. Such action shall include, but not limited to:

1. Removal of records to place in a secure location or limit access to the location where the records currently exist.
 2. Prevent the individual suspected of committing the fraud from having access to the records.
- f. In consultation with the City Attorney and the appropriate law enforcement authority, the Fraud Investigator may disclose particulars of the investigation with potential witnesses if such disclosure would further the investigation.
 - g. If the Fraud Investigator is contacted by the media regarding an alleged fraud or audit investigation, the Fraud Investigator shall consult with the City Administrator and the City Attorney, as appropriate, before responding to a media request for information or interview.
 - h. At the conclusion of the investigation, the Fraud Investigator shall document the results in a confidential memorandum report to the City Administrator and City Attorney. If the report concludes that the allegations are founded, the report shall be forwarded to the City Council.
 - i. Unless exceptional circumstances exist, a person under investigation for fraud is to be given notice in writing of essential particulars of the allegations following the conclusion of the audit. Where notice is given, the person against whom allegations are being made may submit a written explanation to the Fraud Investigator no later than seven (7) calendar days after notice is received.
 - j. The Fraud Investigator shall be required to make recommendations to the appropriate department for assistance in the prevention of future similar occurrences.
 - k. Upon completion of the investigation, including all legal and personnel actions, all records, documents and other evidentiary material obtained from the department under investigation shall be returned by the Fraud Investigator to that department.

SECTION 7. WHISTLE-BLOWER PROTECTION

Individuals who observe and, in good faith, report a violation of the City's fraud policy shall be granted the protections contained herein. However, such protection shall not be afforded to individuals who are the subject of pending disciplinary action. When informed of a suspected impropriety, neither the City nor any person acting on behalf of the City shall:

1. Dismiss or threaten to dismiss the reporting individual;
2. Discipline, suspend or threaten to discipline or suspend the reporting individual;
3. Impose any penalty upon the reporting individual; or
4. Intimidate or coerce the reporting individual.

Violation of this section shall result in discipline up to and including dismissal in accordance with applicable federal, state and local administrative laws.

SECTION 8. PROCEDURES

Record Security – A successful audit/investigation can only be performed if the documentation relating to an alleged fraud is available for review in its original form. Therefore, once the suspected fraud is reported, the department head or the City Administrator shall take immediate action to prevent the theft, alteration, or destruction of relevant records. Such actions are not necessarily limited to, removing the records and placing them in a secure location, limiting access to the location where the records currently exist, and preventing the individual suspected of committing fraud from having access to the records. The records must be adequately secured until the City Administrator obtains the records to begin the audit investigation.

Contacts/Protocols – After an initial review and a determination that the suspected fraud warrants additional investigation, the City Administrator will notify the City Council and appropriate law enforcement authority of the allegations. The City Administrator shall coordinate the investigation with appropriate law enforcement officials and shall report its investigative findings as described below.

Confidentiality - All participants in a fraud investigation shall keep the details and result of the investigation confidential except as expressly provided in this administrative procedure. However, the City Administrator and the appropriate law enforcement authority may discuss the investigation with any person if such discussion would further the investigation.

Personnel Actions – If a suspicion of fraud is substantiated by the audit investigation, disciplinary action shall be taken in conformance with the City's Personnel Policies. A false and vindictive allegation of fraud is a violation of this administrative procedure. All violation of this procedure, including violation of the confidentiality provision, shall result in disciplinary action up to and including termination.

Retaliation – It is a violation of this administrative procedure for any individual to be discriminated against for reporting fraud or for cooperating, giving testimony or participating in an audit investigation, proceeding or hearing. Such individual falls under the protection of the Whistle Blower Act.

Media Issues – If the media becomes aware of an audit investigation, the appropriate department head or City Administrator shall refer the media to the appropriate law enforcement authority. The alleged fraud and audit investigation shall not be discussed with the media other than through the appropriate law enforcement authority's office.

SECTION 9. DISPOSITION OF INVESTIGATION

At the conclusion of the audit investigation, the City Administrator and the appropriate law enforcement authority's office will document the results in a confidential memorandum to the City Council, with a copy to the appropriate department head.

SECTION 10. DISCIPLINE

Violations of this policy by a City employee will be handled in accordance with the City's employee manual. Elected officials or officers violating this policy will be handled in accordance with the appropriate State laws. All other persons or entities that are found to have violated this policy will be

either removed from the applicable board, commission or committee or subcommittee to suspension by the City from future business transactions for a specified period of time.

SECTION 11. EXCEPTIONS

There shall be no exceptions to this policy unless provided and approved by the City Council.

SECTION 12. POLICY ACKNOWLEDGEMENT

Applicable individuals are required to review this policy and acknowledge their receipt of it by signing the Fraud Recognition and Understanding for as they are hired, elected or appointed.

**CITY OF SANDY OAKS
FRAUD RECOGNITION AND UNDERSTANDING FORM**

By signing below, I acknowledge that I have received the City of Sandy Oaks Fraud Prevention and Detection Policy. I understand that I am to read the Policy and to understand my responsibilities related to the prevention, detection and reporting of suspected fraud, misconduct, dishonestly or other similarities.

Print name:

Signature:

Date: _____

*Return the signed form to the City Clerk
or City Administrator*

**Acknowledgment of receipt by City Clerk
or City Administrator:**

Date: _____