



CITY OF TOM BEAN

ORDINANCE 2011-01

AN ORDINANCE ESTABLISHING A WHISTLE-BLOWER POLICY FOR THE CITY OF TOM BEAN, TEXAS:

The City of Tom Bean is committed to protecting its revenue, property, information and other assets from any acts, either by members of the public, contractors, sub-contractors, agents, intermediaries or its own employees, of waste and/or wrongdoing.

The City is establishing a Whistle-Blower Program that provides overarching guidance to augment existing corporate policies and establishes additional mechanisms to ensure consistent, systematic, city-wide processes are in place for the prevention, detection, reporting and investigation of any suspected act of waste and/or wrongdoing.

PURPOSE

The purpose of this policy is to establish specific program responsibilities regarding the reporting and investigation of allegations of waste and/or wrongdoing within The City of Tom Bean. This policy reflects the City's ongoing effort to support open, ethical, accountable and transparent local government.

APPLICABILITY

This policy applies to all employees, managers, contractors, suppliers, agencies and commissions over which Council has the authority to require general policies be followed. Complaints or allegations of waste and/or wrongdoing may be made by any employee, contractor, supplier or member of the public who has knowledge of an occurrence or has reason to suspect that waste and/or wrongdoing have occurred.

DEFINITIONS

Waste: Refers to the inefficient use of City of Tom Bean resources. Specifically, waste refers to any operation, process or activity where taxpayer funds may be spent without due regard for value for money and/or where opportunities may exist to save money.

Whistle-Blower: a person who calls attention to a questionable or illicit activity in an attempt to have the activity brought to an end.

Whistle-Blower Program: refers collectively to all policies, procedures and mechanisms within Administration and the City Auditor's Office that address issues of wrongdoing and/or waste.

Wrongdoing: For purposes of this policy, wrongdoing is used to refer collectively to illegal or inappropriate conduct. Wrongdoing includes but is not limited to:

- Crime or suspected criminal activity;
- Fraud as defined in the Criminal Code of Texas
- The wrongful or unauthorized acquisition, use, appropriation, or disposal of City assets including monies, information, data, materials, labor or equipment;
- The violation of public trust or duty;
- The misuse of position for personal gain;
- Other irregularities, including but not limited to:
- Forgery or alteration of cheques, drafts, promissory notes and securities;
- Any misappropriation of funds, securities, supplies or other asset;
- Any irregularity in the handling or reporting of money transactions;
- Misappropriation of furniture, fixtures and equipment;
- Unauthorized use or misuse of City property, equipment, materials, records; and
- Any claim for reimbursement of expenses that are not made for the exclusive benefit of The City.

General Policy Statements:

City employees must report any suspected instance or allegation of waste and/or wrongdoing immediately to a supervisor. Where the employee fears reprisals or where the nature of the allegation precludes reporting within the administration, the employee may report their concerns to the Mayor under the Whistle-Blower Program.

The City of Tom Bean will fully investigate any suspected acts or allegations of waste and/or wrongdoing. An appropriate, objective and impartial investigation will be conducted regardless of the alleged wrongdoer's position, title, and length of service or the relationship with The City of any party who might be involved in such an investigation.

Where the results of the investigation finds reasonable grounds to indicate that a fraud or criminal act may have occurred, the file will be turned over to the Tom Bean Police Department. The City will cooperate fully in any subsequent police investigation.

The City will make every reasonable effort, including court ordered restitution, to pursue the recovery of City losses from the offender or other appropriate source(s).

The Whistle-Blower Program is designed to address complaints and allegations of waste and/or wrongdoing. It will not accept items that are considered to be activism and/or challenges of the appropriateness of Council policy decisions. Complaints of this nature should be made to the elected officials.

Whistle-Blower Protection

No City employee or person acting on behalf of The City shall take any action in reprisal against an individual making a complaint or allegation in good faith, including:

- Dismissal or threaten to dismiss an employee;
- Discipline, suspend, or threaten to discipline or suspend an employee;
- Subject the employee to any form of harassment or abuse;
- Impose any penalty, directly or indirectly, upon a complainant; and Intimidate or coerce the complainant.

Where management is informed or becomes aware of possible reprisals against an individual as a result of a report under this policy, the manager will inform the Mayor. The allegations of reprisals will be the subject of immediate investigation. Where the investigation substantiates the allegations of reprisals, the Mayor will be informed and the employees involved will be subject to disciplinary action.

Bad Faith Allegations

Any individual who knowingly makes a false or bad faith complaint or who knowingly makes a false or misleading statement during an investigation will be subject to disciplinary or legal action. Where the results of the investigation determine that a complaint or allegation was made in bad faith, the Mayor, will determine the action that is to be taken with respect to the complainant.

Disciplinary Action

If a suspicion of wrongdoing on the part of a City employee is substantiated by investigation, the employee will be subject to disciplinary action, up to and including dismissal.

RESPONSIBILITIES

The Mayor will develop, implement and maintain an effective Whistle-Blower Program.

PROCEDURES

Reporting Waste and/or Wrongdoing

The Whistle-Blower Program will establish and maintain sufficient and appropriate channels to facilitate reporting of suspected wrongdoing and/or waste.

Employees are required to report allegations of criminal activity, breaches of security or administrative policy to their supervisor or Mayor. Employees may report their concerns directly to the Whistle-Blower Program where there is a fear of reprisals.

Other individuals may make a complaint directly to the Whistle-Blower Program using any of the available reporting channels. Complaints or allegations may be reported in writing, in person, by e-mail or by telephone.

Complaints or allegations can be made on an anonymous basis, where the individual is not required to provide their identity.

Investigations

All complaints and allegations received through the Whistle-Blower Program will be appropriately investigated regardless of the basis of submission unless insufficient information is provided on an anonymous basis for the investigation to proceed.

Security of Evidence

Once an allegation or complaint is received, the Mayor shall take immediate action to prevent the theft, alteration, or destruction of relevant records.

Confidentiality

All employees who have knowledge or are participants in an investigation under the Whistle-Blower Program shall keep the details and results of the investigation confidential. The matter shall not be discussed with anyone other than the Mayor and the Police.

Communications and Reporting of Results

At the conclusion of the whistle-blower investigation, the lead investigator will document the results in a confidential report. The distribution of the report will be based on applicable administrative policy and the circumstances of the case. Where the results of the investigation are expected to be of public interest, such as when criminal charges will laid, the Mayor will develop a communications strategy and inform Council of the investigation in a manner he/she deems appropriate in the circumstances, unless the Police direct otherwise.

Any person contacted by the media with respect to an investigation shall refer the media to the Mayor. The results of the investigation shall not be discussed with the media by any person other than through the Mayor’s office.

Additional Procedures and Guidelines

The Mayor may issue additional detailed procedures for the effective implementation of this policy. These procedures will be part of the City of Tom Bean Personnel Manual.

THIS ORDINANCE SHALL BE IN EFFECT UPON ITS READING AND PASSAGE BY THE CITY COUNCIL OF THE CITY OF TOM BEAN.

Duly passed and approved by the City Council of Tom Bean, Texas on this 11th day of April, 2011.

Mayor, Sherry Howard

Attest:

City Secretary, Cathy Pugh