



## Legislation Text

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**File #:** 141224, **Version:** 0

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141224  
ORIGINAL

ALD. KOVAC

An ordinance relating to a city fraud, waste and abuse hotline.

350-247 cr

This ordinance creates a city fraud, waste and abuse hotline administered by the internal audit division of the comptroller's office to receive complaints involving the fraud, waste or abuse of city resources or assets.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 350-247 of the code is created to read:

### **350-247. Fraud, Waste and Abuse Hotline.**

**1. PURPOSE AND INTENT.** a. The purpose of this section is to establish a mechanism for city employees and members of the general public, in good faith, to report alleged fraud, waste or abuse in city operations by city employees or officers of the city, thereby minimizing financial loss and potential adverse effects on the city. The fraud, waste and abuse hotline seeks to ensure integrity, accountability and public trust through timely investigation and resolution activities, followed by the initiation of appropriate steps to design and implement preventative measures in response to allegations received.

b. It is the intent of the city to protect city employees who lodge good-faith complaints through the fraud, waste and abuse hotline from retaliation, or by keeping the reported information confidential on a need-to-know basis to the extent allowed by the law.

### **2. DEFINITIONS.** In this section:

a. "Abuse" means the improper use of city resources in a manner contrary to law, city policy or work rules, or the improper use of one's position for private gain or advantage for himself or herself or any other person.

b. "Fraud" means any intentional act or omission for personal gain designed to deprive the city of its resources or assets to which the individual or person is not entitled.

c. "Waste" means the careless expenditure of city funds or resources above and beyond the level that is reasonably required to meet the needs of the city, or the consumption or use of city resources that is not authorized.

### **3. CREATION.** There is created a city fraud, waste and abuse hotline administered by the internal

audit division of the city comptroller's office.

**4. SCOPE.** a. The hotline shall receive complaints involving the fraud, waste or abuse of city resources, including the following:

a-1. Illegal acts, such as theft, fraud, kickbacks, bribes, price-fixing or conflicts of interest, by city employees, or contractors or their employees.

a-2. Misuse or abuse of city property or resources, including city buildings, vehicles or equipment, or city time by employees.

a-3. Improper use of one's authority.

a-4. Gross misconduct, such as reckless disregard for the safety of others, or attempts to financially defraud the city, falsification of documents or other forms of misrepresentation.

a-5. Inefficiency of city employees.

b. The hotline shall not receive complaints concerning improper activities by or against individuals who are not employed by, volunteering for or contracting with the city.

**5. INTERNAL AUDIT; INVESTIGATION** a. The internal auditor within the comptroller's office shall be responsible for the hotline.

b. The internal audit division shall receive, track and investigate or refer for investigation complaints received by the hotline. The investigation may include all steps that the internal auditor deems appropriate, including the review of a complaint, any documentary or other evidence provided with it, the gathering of any other relevant documents from any city department or other source, and interviews of the complainant and other persons with relevant information.

c. The internal auditor may refer the complaint, excluding a complaint of employee misconduct, to a city department for investigation or conduct the investigation when appropriate. The audit division may recommend that a department take a specific action based on the internal auditor's initial investigation. Within 60 days of receiving a complaint for investigation or recommendation by the internal auditor for a specific action, or such other time the internal auditor may specify, the department shall report to the internal auditor in writing the results of the department's investigation and any action that the department has taken, including actions taken in response to a recommendation by the internal auditor.

d. The internal auditor shall refer reports of individual employee misconduct to the appointing authority.

**6. ADMINISTRATION.** a. All city employees and officers shall report any instances of suspected fraud, waste or abuse or other illegal acts upon becoming aware of such suspected activities or issues within city government.

b. The city shall maintain a telephone hotline number, web site and electronic mail (e-mail) address, providing any employee, vendor or member of the public the ability to anonymously and confidentially

report any suspected fraud, waste, abuse or illegal behavior.

c. The working audit papers of the internal audit staff concerning fraud, waste or abuse shall be confidential.

d. The internal auditor shall keep all information confidential while an active investigation is being conducted. When an investigation results in a criminal indictment or arrest, it shall be considered active until disposed of by the judicial system. This shall not be constructed to limit those conducting an actual investigation from revealing or discussing information as necessary to facilitate the investigation.

e. Nothing in this section shall be construed to limit, discourage or prevent employees from reporting inappropriate or illegal activities directly to their supervisors, managers, department heads, personnel officers, the department of employee relations, the internal audit division or local law enforcement.

**7. EMPLOYEE PROTECTION.** a. Employees shall be protected from being disciplined, discharged or subjected to threats, or otherwise discriminated against in retaliation for bringing forth, in good faith, charges of fraud, waste or abuse, or other unlawful conduct in violation of any city policy, directive or code provision by any employee, official, appointee, contractor or vendor of the city when the report of fraud, waste or abuse is the sole cause of the retaliatory action.

b. Good faith shall be established if an employee has a reasonable belief that an employee, official, appointee, contractor or vendor of the city is engaged in fraud, waste, abuse or other unlawful conduct in violation of a city policy, directive or code provision.

c. An employee who knowingly, or with reckless indifference to the truth, makes a false report may be subject to disciplinary or legal action.

d. An employee who believes he or she has suffered retaliation for filing a complaint with the hotline shall file a detailed report within 30 days from the date of the alleged retaliatory action. The report shall be filed with the internal auditor and the director of employee relations. The written report shall include all the relevant facts concerning the alleged retaliatory action, including:

d-1. The name and work address of the complainant.

d-2. The name and title of each city employee against whom the complaint of retaliation is made.

d-3. The specific type and date of retaliation.

d-4. A statement as to the facts that form the basis of the complaint of retaliation.

d-5. A statement of the complainant's explanation of how his or her reported allegation of fraud, waste, abuse or other unlawful conduct or participation in an investigation, proceeding or hearing is related to the investigation.

e. Complaints of retaliation by city employees shall be investigated by the department of employee relations. If an investigation discloses a violation has occurred, the department of employee relations shall work with department heads and managers to implement corrective action and resolve the

situation as provided in s. 350-203-3-e.

f. Nothing in this section implies an intention by the city to alter or change any employee's employment status or to create a private legal claim or cause of action concerning any complaint of retaliation.

8. REPORT. The internal auditor shall submit an annual report to the common council which shall include:

- a. The number of complaints received.
- b. The types of complaints received.
- c. The number of referrals to the department of employee relations or other city departments.
- d. The number of investigations conducted by the internal audit division.
- e. Findings or recommendations on policies and practices resulting from investigations.

Part 2. Common Council Resolution File Number 040063, adopted on June 15, 2004, is rescinded.

APPROVED AS TO FORM

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Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB151660-5

TWM:lp

7/8/2014