

 CITY OF ST. CHARLES <small>ILLINOIS • 1834</small>	AGENDA ITEM EXECUTIVE SUMMARY		Agenda Item number: 7b
	Title:	Recommendation to Approve an Ordinance Adopting a Whistleblower Protections Policy	
	Presenter:	Jennifer McMahon, Director of Human Resources	
Meeting: Government Operations Committee		Date: August 16, 2021	
Proposed Cost: \$0	Budgeted Amount: \$0	Not Budgeted:	<input type="checkbox"/>
<p>Executive Summary (if not budgeted please explain): On February 22, 2021, Public Act 101-652 became law. Among other things, this Act amends the Public Officer Prohibited Activities Act mandating that local governmental units establish a Whistleblower Protections policy. Such a policy covers not only employees, but elected and appointed officials. It is required by law that the policy be distributed at time of hire and annually. Included in the backup material is a copy of the policy and an ordinance adopting such a policy. This policy has been reviewed by the City attorney.</p> <p>HR Director McMahon recommends adoption of this ordinance and establishment of this policy.</p>			
<p>Attachments (please list): Whistleblower Protections policy and adopting ordinance</p>			
<p>Recommendation/Suggested Action (briefly explain): Recommendation to Approve an Ordinance Adopting a Whistleblower Protections Policy</p>			

ORDINANCE NO: _____
AN ORDINANCE ADOPTING A WHISTLEBLOWER PROTECTIONS POLICY
FOR THE CITY OF ST. CHARLES

WHEREAS, the Illinois General Assembly enacted Public Act 101-652, an Act concerning government, which was signed into law on February 22, 2021, and became effective on July 1, 2021, amending 50 ILCS 105/4.1;

WHEREAS, pursuant to the Act, each governmental unit shall establish a policy to protect whistleblowers;

WHEREAS, all prior existing whistleblower policies of the City of St. Charles shall be superseded by the Whistleblower Protections Policy, to be adopted by this Ordinance; and

NOW, THEREFORE, be it ordained by the corporate authorities of the City of St. Charles the following:

Section 1. The Whistleblower Protections Policy, attached as Exhibit A to this Ordinance, is hereby adopted.

Section 2. Should any section or provision of this Ordinance or the adopted Policy protecting whistleblowers be declared to be invalid, that decision shall not affect the validity of this Ordinance or adopted Whistleblower Protections Policy as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. That after the adoption and approval hereof the Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles. This ordinance shall be effective as of September 7, 2021.

PRESENTED to the City Council of the city of St. Charles, Illinois, this _____ day September, 2021.

PASSED by the City Council of the city of St. Charles, Illinois, this _____ day of September, 2021.

APPROVED by the Mayor of the city of St. Charles, Illinois, this _____ day of September, 2021.

Mayor Lora Vitek

ATTEST:

City Clerk Nancy Garrison

COUNCIL VOTE:

Ayes:

Nays:

Absent:

APPROVED AS TO FORM:

City Attorney Nick Peppers

Date: _____

Exhibit A

WHISTLEBLOWER PROTECTIONS POLICY

The City of St. Charles is committed to maintaining a work environment that is free of retaliation against those who report, testify about, or participate in investigations regarding alleged improper governmental activities required by the Public Officer Prohibited Activities Act (50 ILCS 105/4.1, *et seq.*).

The City will not tolerate retaliation against employees based on the employee's reporting of alleged improper governmental activities against City employees or independent contractors by anyone, including the City, any agent or representative of the City, or another employee or contractor. Any report of retaliation will promptly be reported to the City's appointed Auditing Official for review. All employees are responsible for reporting improper government activities as well as reporting any retaliatory conduct resulting therefrom.

APPOINTED AUDITING OFFICIAL:

An Auditing Official is an individual appointed by the City whose duties are to receive, register, and investigate complaints and information concerning misconduct, inefficiency, and waste within the City based upon the prohibitions set forth below. The City has not appointed an Auditing Official, therefore, reports under this policy can be made to the Kane County State's Attorney at the following:

Kane County Branch Office
530 South Randall Road
St. Charles, IL 60174
Phone: (630) 262-5116
Fax: (630) 513-6822

WHO IS COVERED:

Anyone employed by the City, whether in a permanent or temporary position, including full-time, part-time, and intermittent workers. This includes members of appointed boards or commissions, including but not limited to the City's Pension Boards, Board of Fire and Police Commissioners, and Building Board of Review, Foreign Fire Insurance Tax Board, Historic Preservation Commission, Housing Commission, Joint Review Boards, Liquor Control Commission, Mental Health Board, Natural Resources Commission, Plan Commission, Tri-City Ambulance Board, Visitors Cultural Commission, Youth Commission, and Zoning Board of Appeals, whether or not paid. Further, this policy covers persons who have been terminated because of any report or complaint submitted under this policy.

WHAT IS COVERED:

Any retaliation or threat of retaliation made against a City employee based on the employee's written reporting, testifying, or participating in an investigation involving alleged improper governmental activities.

Improper governmental activities include any action undertaken in violation of state, federal, or local law; abuse of authority, public trust, or expectations in the position; creating substantial and specific danger to public health and safety or engaging in a gross waste of public funds. The action may not be within the scope of a covered individual's official duties to be subject to a claim of improper governmental action. Further, this policy does not prohibit personnel actions unless the personnel action is taken in retaliation for a report, testimony, or participation in an investigation of an improper governmental activity.

WHAT IS PROHIBITED:

Retaliate, retaliation or retaliatory action means any action, or threat of action, by a City employee, appointed member of a board, commission, committee, or an elected official of the City, resulting in any adverse change in an employee's employment status or the terms and conditions of employment that results from an employee's protected activity under this Section, and includes, but is not limited to, denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unsubstantiated letters of reprimand or unsatisfactory performance evaluations; demotion; reduction in pay; denial of promotion; transfer or reassignment; suspension or dismissal; or other disciplinary action made because of an employee's protected activity under this Policy. This policy does not include a City's personnel actions except to the extent that the action amounts to retaliation.

FILING A COMPLAINT:

If an employee or other persons covered by this policy feels that he/she has experienced retaliation based on the reporting of alleged improper governmental activities, he/she is to immediately report the act of retaliation to the Auditing Official designated in this policy. The employee or other persons covered by this policy must submit their report in writing within 60 days of notice of the alleged retaliatory conduct.

COMPLAINT PROCEDURE:

All reports identifying conduct that is inconsistent with this policy will be promptly and thoroughly investigated. These investigations shall remain confidential unless the reporting employee chooses to waive confidentiality or a waiver of confidentiality is otherwise required by law. The Auditing Official will have the ability to carry out corrective actions and provide remedies to those affected.

RESPONSIBILITIES OF THE AUDITING OFFICIAL:

The Auditing Official is responsible for determining the veracity of the complaints submitted and enforcing this policy and complying with the Act including conducting investigations consistent with this policy, retaining outside investigators if the Auditing Official determines that it is

necessary, and taking any steps necessary to protect employees who report violations and government assets affected.

CORRECTIVE ACTIONS:

The Auditing Official may impose discipline for inappropriate conduct that violates this policy without regard to whether the conduct constitutes a violation of the law. Corrective action may include a fine of no less than \$500 and no more than \$5,000, suspension without pay, demotion, discharge, civil or criminal prosecution, or any combination of these penalties, as appropriate.

REMEDIES:

The Auditing Official may reinstate, reimburse for lost wages or expenses incurred, promote, or provide some other form of restitution. In instances where the Auditing Official determines that restitution will not suffice, the Auditing Official may make his/her investigation findings available for the purposes of aiding in that employee or the employee's attorney's effort to make the employee whole. Further, the Auditing Official is also responsible for taking appropriate remedial measure if a complaint is determined to be false, fraudulent, or submitted for purposes other than reporting improper governmental activities.

TRAINING REQUIREMENTS:

The City shall provide a copy of this policy to every employee upon commencement of employment and on an annual basis to ensure employees understand their rights and the process in which they can report retaliation based on this policy.

ACKNOWLEDGEMENT OF RECEIPT

I, _____ (Employee/City Official Name) hereby acknowledge receipt of the Whistleblower Protections Policy and agree to read all of the Policy's provisions.

Signature: _____ Date: _____