

EMAKHAZENI LOCAL MUNICIPALITY



ANTI-FRAUD AND ANTI-CORRUPTION POLICY FOR 2022/2023

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“CODE OF CONDUCT FOR MUNICIPAL EMPLOYEES AND COUNCIL”:

For Municipal staff members as prescribed in Schedule 2 of the Local Government Municipal Systems Act, Act 32 of 2000

“ELM” :Emakhazeni Local Municipality

“FRAUD AND CORRUPTION”:

Includes, but not limited to, the following legal definitions:

1. Fraud i.e. the unlawful and intentional making of a misrepresentation resulting in actual or potential prejudice to another.
2. Theft i.e. the unlawful and intentional misappropriation of another’s property or property which is in his/her lawful possession, with the intention to deprive the owner of its rights permanently
3. Offence in respect of corrupt activities as defined in the Prevention and Combating of Corrupt Activities Act, 2004 i.e.

3.1 The general offence of corruption which could be summarized as directly or indirectly accepting or agreeing to accept any gratification from another person; giving or agreeing to give any other person any gratification in order to influence that person directly or indirectly to exercise his power, duties or legal obligations in a manner which is amount to:

- a. Illegal, dishonest, unauthorized, incomplete or biased
- b. Misuse of selling of information material acquired
- c. Abuse of position of authority
- d. Breach of trust
- e. Violation of a legal duty or set of rules
- f. Designed to achieve an unjustified results; and
- g. Any other unauthorized or improper inducement to do or not to do anything

3.2 Corrupt activities in relation to:

- 3.2.1 Public officials
- 3.2.2 Foreign public officials
- 3.2.3 Agents
- 3.2.4 Judicial officers
- 3.2.5 Members of the prosecuting authority
- 3.2.6 Unauthorized gratification received or offered by or to a party in an employment relationship
- 3.2.7 Contracts
- 3.2.8 Procuring and withdrawal of tenders
- 3.2.9 Witnesses and evidential material during certain proceeding
- 3.2.10 Sporting events
- 3.2.11 Auctions
- 3.2.12 Conflict of interest and other unacceptable conduct, e.g.:
- 3.2.13 Acquisition of private interest in contract, agreement in or investment in public body;
- 3.2.14 Unacceptable conduct relating to witnesses; and
- 3.2.15 Intentional interference with, hindering or obstruction of investigation of offence.
- 3.2.16 Other offences relating to corrupt activities:
- 3.2.17 Accessory to or after an offence;

- 3.2.18 Attempt, conspiracy and inducing another person to commit an offence; and
- 3.2.19 Failure to report corrupt transactions.
- 3.2.20 Systems issues: where a process/system exist which is prone to abuse by employees, the public and other stakeholders, e.g.
- 3.2.21 Procurement fraud e.g. irregular collusion in the awarding of tenders or order of goods
- 3.2.22 Deliberate non-compliance with delegation of authority limits
- 3.2.23 Collision in contract management
- 3.2.24 Travel and subsistence fraud
- 3.2.25 Disclosing confidential or proprietary information to outside parties
- 3.2.26 Financial issues: i.e. where individuals or companies have fraudulent obtained money from Emakhazeni Local Municipality e.g.:
- 3.2.27 Syndicate fraud e.g. interception of warranty vouchers
- 3.2.28 Creditor's fraud, e.g. diverting payments to incorrect creditors
- 3.2.29 Suppliers submitting invalid invoices or invoicing for work not done.
- 3.2.30 Revenue fraud
- 3.2.31 Payroll fraud e.g. creation of ghost employees
- 3.2.32 Theft of funds

3.3 Equipment and resources issue: i.e. where Emakhazeni Local Municipality's equipment is utilized for personal benefit or stolen e.g.

- 3.3.1 Theft of assets e.g. computers, face value forms etc.
- 3.3.2 Personal use of resources e.g. internet
- 3.3.3 Irregular destruction, removal, abuse of records (including intellectual property)
- 3.3.4 Other issues: i.e. activities undertaken by employees of Emakhazeni Local municipality, which may be against policies or fall below established ethical standard, e.g.
- 3.3.5 Soliciting gifts or favours from consultants or other suppliers, e.g. acceptance of "kick-backs";
- 3.3.6 Conflict of interest
- 3.3.7 Nepotism
- 3.3.8 Favouritism; and
- 3.3.9 Deliberately omitting or refusing to report or act upon reports of any unethical conduct, fraud and corruption

"MFMA" : Municipal Finance Management Act, Act No 56 of 2003

"FRAUD PREVENTION POLICY" : Fraud Prevention Policy and Response Policy

"MANAGERS" : Includes all Heads of Department and where appropriate Supervisors

"POLICY" : Fraud Prevention Policy

"PROTECTED DISCLOSURE ACT": Protected Disclosure Act, Act 26 of 2000

1. INTRODUCTION

This document is to set the tone through which management commits themselves to rejecting fraud and corruption in the Municipality.

This document binds all the employees of the Municipality to combat all forms of fraud and corruption. Emakhazeni Local Municipality aimed at creating culture which is intolerance to unethical conduct of fraud and corruption.

It is the Municipality's policy that no fraud will be tolerated, all alleged fraud will be investigated and all transgressors shall be punished both through disciplinary and legal channels to the fullest extent of law.

2. PURPOSE OF THE POLICY

The purpose of the policy is to:

- Guide employees of Emakhazeni Local Municipality on the behaviour and activities that acceptable and expected by the Municipality in achieving its Vision and Mission.
- Ensure that Management is aware of their responsibilities for establishing controls and procedures to prevent and detect fraud and corruption.
- Provide assurance that all suspected fraudulent activities will be fully investigated and;
- Provide some guidelines on the steps/initiatives management needs to take.

3. SCOPE OF APPLICATION

- This policy applies to all employees, permanent and on contract.
- This policy applies to all allegations, attempts and incidents of fraud impacting or having the potential to impact the Municipality.
- All employees of Emakhazeni Local Municipality must comply with the spirit and content of the policy.
- The policy focuses on fraud committed internally by employees of the Municipality.

4. RESPONSIBILITIES

4.1 MANAGERS AND SUPERVISORS

The Managers and supervisors must ensure that they:

- 4.1.1 Conform to the standards of ethical behaviour as prescribed by the code of conduct.
- 4.1.2 Create an environment in which it is clear that dishonest acts will not be tolerated, but will be actively sought out and investigated.
- 4.1.3 Are seen to be complying with laws, policies, plan rules and regulations
- 4.1.4 Draft and implement appropriate policies and procedure related to fraud.
- 4.1.5 Establish and maintain adequate and effective systems of internal control to safeguard the entire Municipality's resources and prevent/reduce the opportunity for fraud.
- 4.1.6 Appoint appropriate independent functions to assist in identifying risks and or/evaluate internal control such and Internal Audit Function.
- 4.1.7 Follow –up on reported/alleged fraudulent activities in the manner prescribed in the policies and procedure governing this area
- 4.1.8 Ensure that resources fraudulently acquired are recovered.
- 4.1.9 Promote good governance and management
- 4.1.10 Implement and maintain system of internal controls to minimized exposure and reduced the opportunity for fraud.
- 4.1.11 Put programs in place to alleviate the pressure on employees and thereby reducing the incentive to take shortcuts.

4.2 ALL EMPLOYEES AND COUNCILLORS

- 4.2.1 All employees and councillors are therefore responsible to be aware of the risks related to and the symptoms of fraud and corruption
- 4.2.2 All employees and councillors should keep abreast of the standards of ethical behaviour required of them in fulfilling their duties and should comply with all relevant policies, procedure, laws, rules and regulations.
- 4.2.3 For preventive measures to be effective, all employees and councillors should do their part to establish an environment where fraud and corruption will not be tolerated.
- 4.2.4 In critical posts when the Municipality consider employing, the following measures are required:
 - a) To be subject to screening and vetting procedure
 - b) Sign, accept and abide by the Municipal Code of Conduct

Adhere to the security measures established at offices, several security measures have been implemented e.g. security guards and procedure at entrance.

5. REVIEW OF POLICY

This document will be reviewed on an annual basis.

6. APPROVAL OF POLICY

This document will be approved on an annual basis.

PREPARED BY:

Ms. NM Mokwana
Risk Officer

Date

RECOMMENDED BY:

Chairperson: Risk Committee
Mr. T. Boltman

Date

APPROVED BY:

Mr. G Mthimunye
Municipal Manager

Date

Council Resolution number: _____