

RESOLUTION 1993-001

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, APPROVING THE LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT POLICY AND AUTHORIZING ITS INCLUSION IN THE CITY OF DEER PARK PERSONNEL MANUAL.**

CITY OF DEER PARK  
Spokane County, Washington

WHEREAS, revisions to state statute require that the City of Deer Park implement a policy designed to encourage the reporting of improper governmental actions taken by City officers and employees and to protect persons who have made such reportings from retaliation; and

WHEREAS, the City Council has reviewed the policy attached hereto as Exhibit A and believes its adoption to be both required by law and in the best interest of the citizens of the City of Deer Park, now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DEER PARK, WASHINGTON, AS FOLLOWS:

Section 1. The LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT CITY OF DEER PARK POLICIES AND PROCEDURES attached hereto as Exhibit A is hereby approved and adopted by the City Council, authorizing its inclusion in the City of Deer Park Personnel Manual. The Deer Park City Clerk is hereby authorized to incorporate such document into the Manual.

RESOLVED THIS 3rd day of February, 1993.

  
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Keith D. Reilly, Mayor

ATTESTS:  
  
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Christine McCoy, City Clerk/Treasurer

## EXHIBIT A

### LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT CITY OF DEER PARK POLICIES AND PROCEDURES

#### Policy Statement

It is the policy of the City of Deer Park (City): (1) to encourage reporting by its employees of improper governmental action taken by City officers or employees, and (2) to protect City employees who have reported improper governmental actions in accordance with City policies and procedures.

#### Definitions

As used in this policy, the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a City officer or employee:
  - a. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within scope of the employee's employment; and
  - b. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety, or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

2. "Retaliatory action" means any adverse change in the terms and conditions of a City employee's employment.
3. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

#### Procedures of Reporting

The City encourages the reporting of improper governmental action by any City officer or employee and protects employees against retaliatory actions for reporting improper government action in compliance with City policy and procedures. This policy states the City's procedures for reporting improper governmental action and for protecting employees against retaliatory actions.

City employees who become aware of improper governmental actions should submit a written report to the City Clerk stating in detail the basis for the employee's belief that an improper governmental action has occurred.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

The City Clerk shall take prompt action in investigating the report of improper governmental action. City officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

City employees may report information about improper governmental actions directly to the appropriate government agency with responsibility for investigating the action if the employee reasonably believes that an adequate investigation was not undertaken by the City to determine whether an improper governmental action occurred, or that insufficient action has been taken by the City to address the improper governmental action is likely to recur.

City employees who fail to make a good-faith attempt to follow the City's procedures in reporting improper governmental action shall not receive the protections provided by the City in these procedures.

#### Protection Against Retaliatory Actions

City officials and employees are prohibited from taking retaliatory action against a City employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise the City Clerk in writing. The City Clerk shall take appropriate action to investigate and address complaints of retaliation within (30) thirty days of written report being filed with the Clerk.

If the City Clerk does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Mayor that:

- a. Specifies the alleged retaliatory action, and
- b. Specifies the relief requested.

City employees shall provide a copy of their written charge to the City Clerk no later than thirty (30) days after the occurrence of the alleged retaliatory action. The City Clerk shall respond within (30) days to the charge of retaliatory action.

After receiving either the response of the City Clerk or thirty days after the delivery of the charge to the City Clerk, the employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for hearing to the Mayor within the earlier of either fifteen (15) days of delivery of the City Clerk's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the City Clerk for response.

Upon receipt of request for hearing, the City shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge. Under state law, the employee must prove his or her claim by a preponderance of the evidence in the hearing. The administrative law judge will issue a final decision no later than forty-five (45) days after the date the request for hearing, unless an extension of time is granted. The administrative law judge has the authority to grant the employee reinstatement to his or her job position, with or without back pay, and injunctive relief. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party. In addition to these remedies, the administrative law judge may impose a civil penalty personally upon the retaliator of up to \$3,000.

Office of Administrative Hearings  
P.O. Box 42488, 5335 Sixth S. E.  
Rowe Six, Building 1  
Lacey, Washington 98504-2488  
(206) 459-6353

The City will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

#### Responsibilities

The City Clerk is responsible for implementing the City's policies and procedures (1) for reporting improper governmental action, and (2) for protecting employees against retaliatory actions. This includes ensuring that these policies and procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request, and (3) are provided to all newly-hired employees. Officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of these policies and procedures may result in appropriate disciplinary action, up to and including dismissal.

List of Agencies

Following is a list of agencies responsible for enforcing federal, state, and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures of reporting improper governmental action are encouraged to contact the City Clerk.

Spokane County Prosecuting Attorney  
W 1100 Mallon  
Spokane, Washington 99201  
(509) 456-3662

State Attorney General's Office  
Fair Practices Division  
2000 Bank of California Center  
900 Fourth Avenue  
Seattle, Washington  
(206) 464-6684

State Auditor's Office  
Legislative Building  
P.O. Box 40021  
Olympia, Washington 98504-0021  
(206) 753-5280

State Department of Ecology  
N 4601 Monroe Suite 202  
Spokane, Washington 99205-1295  
(509) 456-2926

Human Rights Commission  
W 905 Riverside  
Spokane Washington  
(509) 456-4473

Department of Labor and Industries  
E 3901 Main  
Spokane Washington  
(509) 324-2600

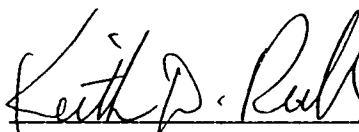
Environmental Protection Agency  
Criminal Investigations  
1200 Sixth Avenue  
Seattle Washington  
1-800-424-4372

Equal Employment Opportunity Commission  
2815 Second, Suite 500  
Seattle Washington  
1-800-669-3362

Department of Labor  
Occupational Safety & Health (OSHA)  
W 920 Riverside Room 131  
Spokane Washington 99201  
(509) 353-2329

Adoption

These policies and procedures were adopted by the City Council of the City of Deer Park on February 3, 1993.



Keith D. Reilly, Mayor

ATTEST:

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Christine McCoy, City Clerk/Treasurer