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04/06/93

"Whistleblower Policy"

RESOLUTION NO. 946

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, ADDING A NEW POLICY TO THE REDMOND PERSONNEL MANUAL IN ORDER TO ADOPT A WHISTLEBLOWER PROTECTION PROGRAM FOR CITY EMPLOYEES, AS REQUIRED BY CHAPTER 44, LAWS OF 1992.

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WHEREAS, the Washington State Legislature has recently adopted regulations for whistleblower protection of local governmental employees (Chapter 44, Laws of 1992); and

WHEREAS, these regulations require that local governments adopt consistent policies, and provide employees with notice of the procedures for reporting improper governmental actions that will allow protection from retaliatory action and relief in appropriate circumstances; and

WHEREAS, the Human Resources Department has presented a proposed policy to the City Council in order to comply with the requirements of the state law and the Council has determined to add the same to the Personnel Manual; now, therefore,

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Personnel Manual Amended. The Whistleblower Protection Policy attached to this Resolution is hereby adopted and added to the Redmond Personnel Manual in order to meet the requirements of Chapter 44, Laws of 1992.

Section 2. Posting of Summary. Pursuant to Section 3(4) of Chapter 44, Laws of 1992, the Human Resources Director shall permanently post a copy of the attached policy in a place where all employees will have reasonable access to it and shall make such policy available to City employees upon request.

APPROVED:

  
\_\_\_\_\_  
MAYOR, ROSEMARIE IVES

ATTEST/AUTHENTICATED:

  
\_\_\_\_\_  
CITY CLERK, DORIS A. SCHAIBLE

FILED WITH THE CITY COUNCIL: April 14, 1993  
PASSED BY THE CITY COUNCIL: April 27, 1993  
RESOLUTION NO. 946

CITY OF REDMOND

"WHISTLEBLOWER" POLICY

**REPORTING IMPROPER GOVERNMENTAL ACTION AND  
PROTECTING EMPLOYEES AGAINST RETALIATION**

POLICY STATEMENT

It is the City of Redmond's policy to:

1. Encourage its employees to report improper governmental action taken by City of Redmond officials or employees; and,
2. Protect City of Redmond employees who have reported improper governmental actions in keeping with the City's policies and procedures.

DEFINITIONS

1. *Good faith* means a deliberate and genuine action taken with confidence in its truth or correctness, along with a lack of interest in taking any conscious advantage of another.
2. *Improper governmental action* means any action by a City of Redmond official or employee that:
  - a. Is undertaken in the performance of the official's or employee's official duties, whether or not the action is within the scope of the employee's employment; and,
  - b. One or more of the following appears to be present:
    - (1) A violation any Federal, State, or local law or rule;
    - (2) An abuse of authority;
    - (3) A substantial and specific danger to the public health or safety; or,
    - (4) A 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.

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DEFINITIONS (continued)

2. (continued)

Examples of *improper governmental* action include, but are not limited to, misappropriating City equipment and supplies for personal use, having City employees do work on a public official's private property while on City time or on their own time without compensation, operating a private business on City time, and accepting gratuities or kickbacks.

3. *Retaliatory action* means any adverse change in the terms and conditions of a City of Redmond employee's employment.

4. *Emergency* means a circumstance that if not immediately changed may cause damage to persons or property.

REPORTING PROCEDURES

Report to Supervisor or Department Head First

City employees who become aware of improper governmental actions, including those involving individuals outside their own departments, must raise the issue first with their supervisor or department head, except as qualified below. If requested by the supervisor, the employee shall submit a written report to the supervisor or department head, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred.

If Improper Action Involves Supervisor or Department Head

Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee shall raise the issue with the department head, or if it involves the department head, the employee may raise the issue directly with the Mayor.

In Case of Emergency

In the case of an emergency, where the employee believes in good faith 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.

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**REPORTING PROCEDURES** (continued)

**If the City Fails to Adequately Investigate**

If the employee reasonably believes

- that an adequate investigation was not undertaken by the City of Redmond to determine whether an improper governmental action occurred, or
- that insufficient action has been taken by the City to address the improper governmental action, or
- that the improper governmental action is likely to recur,

the employee shall give written notice to the Mayor. Not sooner than 48 hours after notifying the Mayor, and if the employee still reasonably believes that the proper corrective action has not been taken, the employee may report information about the improper governmental action directly to the Council President, or the appropriate government agency with responsibility for investigating the improper actions. (See list of agencies attached, page 6.)

**If Improper Action Involves City Council or Mayor**

Where the employee reasonably believes the improper governmental action involves a City Council member, the employee may raise the issue directly with the Mayor.

Where the employee reasonably believes the improper governmental action involves the Mayor, the employee may raise the issue directly with the Council President or King County Prosecuting Attorney.

**Good Faith Attempt to Follow These Procedures Required**

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

**INVESTIGATION PROCEDURES**

The supervisor or the Mayor, as the case may be, shall take action within fifteen (15) calendar days to properly investigate the report of improper governmental action. The employee raising the issue shall be notified by the Mayor when the investigation is begun and approximately when it will be concluded. City of Redmond officers and employees involved in the investigation shall keep the identity of reporting employees confidential to

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INVESTIGATION PROCEDURES (continued)

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. The employee may be notified at his/her home address if he or she so requests.

PROTECTION AGAINST RETALIATORY ACTIONS

Retaliation Prohibited

City of Redmond 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.

If Retaliation Occurs

An employee who believes that they have been retaliated against for reporting an improper governmental action should advise his/her supervisor, or the Mayor or the official indicated in the following matrix:

<u>If perceived</u> <u>Retaliation is by:</u>	<u>then</u>	<u>Advise in writing within</u> <u>thirty (30) days to:</u>
1. Supervisor		1. Department Head (with copy to Mayor)
2. Department Head		2. Mayor
3. Other Individual not named above, including Councilmembers		3. Mayor
4. Mayor		4. Council President

City employees shall provide the written charge of retaliation to the Department Head or Mayor no later than thirty (30) days after the occurrence of the alleged retaliatory action. The Department Head or Mayor shall take appropriate action to investigate and address complaints of retaliation and respond, within thirty (30) days, to the charge of retaliatory action. Only in cases where the Mayor is perceived to have taken a retaliatory action, should the employee send such charge of retaliation to the Council President and the Council President must respond within thirty (30) days, to the charge of retaliatory action.

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**PROTECTION AGAINST RETALIATORY ACTIONS** (continued)

**If the Complaint is Not Satisfactorily Addressed**

If the person advised of the retaliatory action does not satisfactorily resolve the employee's complaint, the employee may obtain protection under this policy and pursuant to State law by providing a written note to the City Council President that specifies the alleged retaliatory action and the relief requested.

**When to Request a State Hearing**

After receiving either the response of the City of Redmond or thirty (30) days after the delivery of the charge to the Mayor, 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 with the earlier of either fifteen (15) days of delivery of the City's response to the charge of retaliatory action, or forth-five (45) days of delivery of the charge of retaliation to the City of Redmond for response.

Upon receipt of request for hearing, the City of Redmond shall apply within five (5) working days to the **State Office of Administrative Hearings** for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings  
P.O. Box 42488, 4224 Sixth Southeast  
Rowe Six, Building 1  
Lacey Washington 98504-2488  
(206) 459-6353

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

**MANAGEMENT RESPONSIBILITIES**

Department heads, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility.

**COMMUNICATION AND IMPLEMENTATION**

The Human Resources Director is responsible for implementing the City of Redmond's policies and procedures for reporting improper governmental action and for protecting employees against retaliatory actions. This includes ensuring that this policy and these procedures are:

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COMMUNICATION AND IMPLEMENTATION (continued)

1. Permanently posted where all employees will have reasonable access to them;
2. Made available to any employee upon request; and,
3. Provided to all newly-hired employees.

VIOLATIONS

Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including dismissal.

QUESTIONS?

Call Human Resources, extension 2120.

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 for reporting improper governmental action are encouraged to contact the Human Resources Director, ext 2120.

King County

*King County Prosecuting Attorney*

King County Court House  
Seattle WA

Criminal Division: (206) 296-9000  
Fraud Division: (206) 296-9010  
Civil Division: (206) 296-9015

United States

*U.S. Attorney*

800 Fifth Avenue  
Seattle WA  
(206) 553-7070

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State of Washington

*Attorney General's Office*

Fair Practices Division'  
2000 Bank of California Center  
900 Fourth Avenue  
Seattle WA  
(206) 464-6684

*State Auditor's Office*

Legislative Building  
P.O. Box 40021  
Olympia WA 98504-0021  
(206) 753-5280

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