	<p><b>City of Albany</b>  <b>Administrative Policy</b>  Employee Relations  Policy #: HR-ER-21-001  Title: Reporting Improper or Unlawful Conduct / No Retaliation</p>	<p><b>Human Resources</b></p>
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**Purpose** This Policy is meant to clearly state the City’s position regarding employees reporting improper or unlawful conduct by coworkers or supervisors without fear of retaliation or other adverse action because of making such a report.

**Policy** **Reporting Improper or Unlawful Conduct – No Retaliation**

Employees may report reasonable concerns about the City’s compliance with any law, regulation or policy, using one of the methods identified in this policy. The City will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:


- A violation of any federal, Oregon, or local law, rules or regulations by the City;
- Mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health resulting from action of the City;
- A substantial and specific danger to public health and safety resulting from actions of the City; or
- The fact that a recipient of City services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, the City will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county or metropolitan service district.

**Employee Reporting Options**

Employees who wish to report potential improper or unlawful conduct should first talk to his or her supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor’s response, you are encouraged to speak with your department director, the Human Resources Director, or City Manager. Employees may go directly to the Human Resources Director or City Manager without following the chain of command in their department. Supervisors and managers are required to inform the Human Resources Director about reports of improper or unlawful conduct they receive from employees.

Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

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If the City were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

**Additional Protection for Reporting Employees**


Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of the City’s violation of law will have an “affirmative defense” to any civil or criminal charges related to the disclosure. For this defense to apply, the disclosure must relate to the conduct of a coworker or supervisor acting within the course and scope of his or her employment. The disclosure must have been made to either: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager with the City; or (4) an Oregon-licensed attorney who represents the employee making the report/disclosure. This defense only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

**Policy Against Retaliation**

The City will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes he or she is disclosing information about conduct that is improper or unlawful.

In addition, the City prohibits retaliation against an employee because he or she participates in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no City employee will be adversely affected because they refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. The City may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of his or her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if the City determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

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**Definitions**

**Abuse of Authority** – To deliberately exceed or make improper use of delegated or inherent authority or to employ it in an illegal manner.

**Gross Waste of Funds** – An expenditure that is significantly out of proportion to the benefit expected to accrue to the City and is more than a debatable expenditure.

**Mismanagement** – Serious misconduct that is of public concern and that does or could undermine the City’s ability to perform its mission.

**Substantial and Specific Danger to Public Health and Safety** – A specific risk of serious injury, illness, peril or loss, to which the exposure of the public is a gross deviation from the standard of care or competence that a reasonable person would observe in the same situation.

**References**      **ORS 659A.200 – 659A.224**

**Review and Authorization**

Supersedes:	Created/Amended by/date: DS; 11/18/2016	Effective Date: 11/20/2016
HR Director:		City Manager:

1. Form or worksheet revision related to this document? No  Yes

If yes, attach a copy of the revised form or worksheet.

2. Training required? No  Yes