

**CITY OF SAMMAMISH
WASHINGTON**

RESOLUTION NO. *R99-27*

**A RESOLUTION OF THE CITY OF SAMMAMISH,
WASHINGTON, ESTABLISHING POLICIES AND
PROCEDURES TO ENCOURAGE CITY EMPLOYEES TO
REPORT IMPROPER GOVERNMENTAL ACTION AND
TO PROTECT CITY EMPLOYEES WHO HAVE
REPORTED IMPROPER GOVERNMENTAL ACTION IN
ACCORDANCE WITH THE CITY'S POLICIES AND
PROCEDURES**

WHEREAS, the Legislature of the State of Washington adopted Substitute Senate Bill 6321 (codified at RCW 42.41), known as the "Whistleblower Protection Act," requiring local governments to adopt policies and procedures to encourage employees to report improper governmental action and to protect employees who report improper governmental action; and

WHEREAS, the public interest is served by adopting such policies and procedures;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. City Policy Statement. Every City employee has the right and obligation to report to the appropriate person information concerning alleged improper governmental actions and the right to do so free from retaliatory action. City officials and employees are prohibited from taking retaliatory action against any City employee because he or she reported in good faith an improper governmental action in accordance with the policies and procedures set forth in this section. Therefore, it is the City's policy to:

1. Encourage City employees to report improper governmental actions taken by City officers or employees; and
2. Protect City employees who have reported improper governmental actions in accordance with the City's policies and procedures.

Section 2. Definitions. As used in these policies and procedures, the following terms shall be defined as indicated:

1. "Improper governmental action" means any action by a local governmental officer or employee undertaken in the performance of the officer's or employee's official duties, whether or not within the scope of the employee's employment, that is in violation of any law or rule, is an

abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds. "Improper governmental action" does not include personnel actions.

2. "Retaliatory action" means any adverse change in an employee's employment status, or the terms and conditions of employment, including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action.

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

Section 3. Procedures for Reporting Improper Action.

A. City employees who become aware of improper governmental action shall submit a written report of such to the City Manager of the City. If the City Manager is the subject of the report, then the report should be made to the Mayor or, in the Mayor's absence, to any Councilmember.

B. Except in the case of any emergency, before an employee provides information of an improper governmental action to a person who is not a public official or a person listed in the City's policy, the employee shall submit a written report to the City Manager. An employee who fails to make a good faith attempt to follow this policy shall not receive the protection of the State whistleblower law.

C. The City Manager shall promptly investigate the report of improper governmental action. City officers and employees involved in the investigation of such 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.

D. Following the completion of an investigation, the employee reporting the alleged improper governmental action may be advised of the results of the investigation and any actions taken by the City Manager or City Council with respect to such report. However, any personnel actions taken as a result of the investigation may be kept confidential.

E. 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. Attached as Exhibit "A" is a list of agencies responsible for enforcing federal, state, and local law and investigating other issues involving improper governmental action.

F. City employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the

City employee believes that an adequate investigation was not undertaken by City staff to determine whether an improper governmental action occurred, or that insufficient action has been taken by City staff to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

Section 4. Dissemination and Posting of City Policies and Procedures. A copy of this Resolution containing the City's policies and procedures for reporting alleged improper governmental action and to protect City employees reporting such shall be provided to all existing and new City employees and a copy of this Resolution shall be permanently posted in a place at the City office where all employees will have reasonable access to it. In addition, a copy of this Resolution shall be made available to any employee upon request.

Section 5. Procedures to Obtain Protection From Retaliatory Actions. An employee who believes he/she has been the subject of retaliatory action for reporting improper governmental action shall obtain relief as follows:

1. Provide the City Council a written notice of the charge of retaliatory action no later than thirty (30) days after the occurrence of the alleged retaliatory action specifying (a) the alleged retaliatory action, and (b) the relief requested. The City shall respond to the charge and request for relief within thirty (30) days.

2. Within fifteen (15) days of the delivery of the response, or within fifteen (15) days of the last day on which the City could respond, the employee may request a hearing to establish that a retaliatory action occurred and to obtain relief.

3. Within five (5) working days of receipt of the request for hearing, the City shall apply to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge. The employee must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision no later than forty-five (45) days after the date the request for hearing was delivered to the local government unless such time period is extended by the administrative law judge. The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to Superior Court.

4. The administrative law judge may grant the following relief:

a. Reinstatement with or without back pay;

b. Injunctive relief to return the employee to the position he or she held before the retaliatory action to prevent any recurrence of retaliatory action;

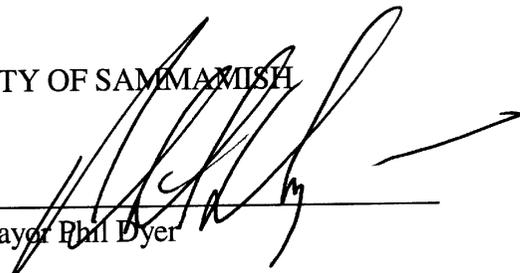
c. Costs and reasonable attorneys' fees to the prevailing party; and

d. The imposition of a civil penalty personally upon the retaliator of up to three thousand dollars (\$3,000.00) payable by each person found to have retaliated against the employee,

and a recommendation to the City that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties recovered shall be paid to the local government administrative hearings account created in RCW 42.41.060.

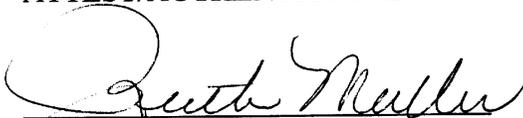
5th PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
DAY OF September, 1999.

CITY OF SAMMAMISH



Mayor Phil Dyer

ATTEST/AUTHENTICATED:



Ruth Muller, Interim City Clerk

Approved as to form:



Bruce L. Disend, City Attorney

Filed with the City Clerk: September 2, 1999
Passed by the City Council: September 8, 1999
Resolution No.: R99-27

EXHIBIT A: CONTACT LIST

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King County Council
1200 King County Courthouse
516 Third Ave., M.S. 12C
Seattle, WA 98104
(206) 296-1000

King County Public Health
999 Third Avenue, Suite 1200
Seattle, WA 98104
(206) 296-4722

King County Department Of Planning
Building Services Division
900 Oakesdale Avenue S.W.
Renton, WA 98055-1219
(206) 296-6600

King County Prosecuting Attorney
King County Courthouse
516 Third Ave., West 554
Seattle, WA 98104
Civil Division: (206) 296-9015
Criminal Division: (206) 9000

Puget Sound Air Pollution Control Agency
110 Union Street, Suite 500
Seattle, WA 98101
(206) 343-8800

State of Washington
Attorney General's Office
Consumer Protection Division
2000 Bank of California Center
900 Fourth Avenue, Suite 200
Seattle, WA 98164-1012
(206) 464-6684

Auditor's Office
Legislative Building
P.O. Box 40021
Olympia, WA 98504-0021
(360) 753-5280

Department of Ecology
3190 160th S.E.
Bellevue, WA 98008-5452
(425) 649-7000

Human Rights Commission
1511 Third Avenue
Seattle, WA 98101

1-800-233-3247 or
(206) 464-6500

Department of Health
Health Consumer Assistance
P.O. Box 47890
Olympia, WA 98504-7890
1-800-525-0127

Department of Labor & Industries
1305 Tacoma Avenue S., Suite 305
Tacoma, WA 98402-1988
(253) 596-3800

Liquor Control Board
Enforcement Office
515 South M Street
Tacoma, WA 98405
(253) 597-3653

Department of Natural Resources
P.O. Box 68
Enumclaw, WA 98022-0069
(253) 825-1631

Puget Sound Water Quality Authority
P.O. Box 40900
Olympia, WA 98504
(360) 493-9300

Department of Social & Health
Special Investigation Office
5200 Southcenter Blvd., Ste. 23
Tukwila, WA 98188
(206) 764-4048

US
Department of Agriculture
Office of Inspector General
915 Second Avenue
Seattle, WA

Supervisor Auditor:
(206) 220-7490
Supervisor Special Agent Investigation:
(206) 220-7991

Alcohol Tobacco & Firearms
Criminal Enforcement
915 Second Avenue, Rm. 806
Seattle, WA 98174
(206) 220-6440

U.S. Attorney
800 Fifth Avenue, Suite 3600
Seattle, WA 98194
(206) 553-7970

Department of Commerce
Office of Inspector General
Office of Audits
915 Second Avenue
Seattle, WA 98174
(206) 220-7970

Government Accounting Office
Fraud Hot Line: 1-800-424-5454
Consumer Product Safety Commission
Hot Line: 1-800-638-2772

U.S. Customs Service
Office of Enforcement
909 First Avenue
Seattle, WA 98104
(206) 553-7531

U.S. Department of Education
Office of Inspector General
915 Second Avenue
Seattle, WA 98174

Audits/Investigations:
(206) 220-7860/(206) 220-7876

Environmental Protection Agency
Criminal Investigations
1200 Sixth Avenue, MS CID073
Seattle, WA 98101
(206) 553-8306

Equal Employment Opportunity Commission
909 First Avenue, Suite 400
Seattle, WA 98104
(206) 220-6883

Federal Emergency Management Agency
130 228th Street S.W.
Bothell, WA 98021
(425) 487-4600

Federal Trade Commission
915 Second Avenue, Suite 2896
Seattle, WA 98174
(206) 220-6363

General Services Administration
915 Second Avenue
Seattle, WA 98174

City of Sammamish Personnel Polices: September, 99

Office of Inspector General Audits Investigations
(206) 931-7650/(206) 931-7654

Department of Health and Human Services
Food & Drug Administration
22201 23rd Drive S.E.
Bothell, WA
Consumer Trade Complaints:
(425) 483-4949

Office of the Regional Secretary
General Counsel's Office, Inspector General
Audits/Investigations:
(206) 615-2252/(206) 615-2259

Department of Housing and Urban Development
Office of Counsel
909 First Avenue, Suite 190
Seattle, WA 98104
(206) 220-5192

Office of Inspector General
Audits/Investigations and Fraud
(206) 220-5360/(206) 220-5380

Interstate Commerce Commission
915 Second Avenue, Room 1894
Seattle, WA 98174
(206) 220-6424

Department of Interior
U.S. Fish & Wildlife Services
Division of Law Enforcement
600 Capitol Way, N(GJ-11)
Olympia, WA 98501
(360) 920-2200

Department of Justice
Drug Enforcement Administration
220 West Mercer, Suite 104
Seattle, WA 98119
(206) 553-5443

Department of Labor
Occupational Safety & Health (OSHA)
1111 Third Avenue, Suite 715
Seattle, WA 98101-3212
(206) 553-5930

Office of Inspector General Audits:
1111 Third Avenue, Suite 600
Seattle, WA 98101-3212
(206) 553-4880
Investigations:

1111 Third Avenue, Suite 785
Seattle, WA 98101-3212

Office of Women's Bureau
1111 Third Avenue, Suite 885
Seattle, WA 98101-3212
(206) 553-1534

Mine Safety & Health Administration
3633 136th Place S.E.
Bellevue, WA 98006
(206) 553-7037

National Transportation Safety Board
19518 Pacific Highway South
Seattle, WA
(206) 764-3782

Nuclear Regulatory Commission
1-800-882-4672

Securities & Exchange Commission
915 Second Avenue
Seattle, WA 98174
(206) 220-7500
Fraud/Waste/Abuse Hotline
1-800-488-8244