

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Adopting the Yamhill County  
Whistleblower Policy

BOARD ORDER 25-92

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on April 3, 2025, Commissioners Kit Johnston, Mary Starrett, and David “Bubba” King being present.

THE BOARD ADOPTS THE FOLLOWING FINDINGS:

WHEREAS, ORS 659A.199 prohibits an employer from discharging, demoting, suspending, or in any manner discriminating or retaliating against an employee for the reason that the employee has in good faith reported information that the employee believes is evidence of a violation of a state or federal law, rule or regulation; and

WHEREAS, ORS 659A.200 to 659A.224 (otherwise known as the “Whistleblower Law”) delineates the requirements, limitations, and procedures necessary to ensure that employers abide by ORS 659A.199; and

WHEREAS, ORS 659A.210(5) requires all public employers to adopt a written policy regarding employees who invoke their rights under the Whistleblower Law; and

WHEREAS, The policy provided in Exhibit A delineates all statutory rights and remedies available to County employees under, and otherwise meets all statutory requirements outlined in, the Whistleblower Law; and now, therefore

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Yamhill County Whistleblower Policy provided in Exhibit A, attached hereto and incorporated herein, is hereby approved and adopted.

Section 2. This policy shall take effect immediately.

Section 3. The County Administrator shall take all actions necessary to implement this policy, including delivering a written or electronic copy of the policy to all County employees as required under ORS 659A.210(5).

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DONE at McMinnville, Oregon on April 3, 2025.

ATTEST



KERI HINTON  
County Clerk

By: *Carolina Rook*  
Deputy CAROLINA ROOK

FORM APPROVED BY:

*Jodi Gollehon*  
JODI GOLLEHON  
Assistant Yamhill County Counsel

YAMHILL COUNTY BOARD OF  
COMMISSIONERS

*Kit Johnston*  
Chair KIT JOHNSTON

*Mary Starrett*  
Commissioner MARY STARRETT

*Bubba King*  
Commissioner DAVID "BUBBA" KING

Approved by the Yamhill County Board of  
Commissioners on 04/03/2025  
via Board Order 25-092



## ADMINISTRATIVE POLICIES

<b>SECTION:</b>	Human Resource Policies	<b>POLICY NO.:</b>	328
<b>TITLE:</b>	Whistleblower Policy		
<b>BOARD ORDERS:</b>	BO 25-92	<b>LAST REVISED:</b>	04/18/2025

### I. PURPOSE

1.01 The purpose of this Policy is to delineate the protections available to a Reporting Individual who invokes his/her rights under state law to disclose of any information that the Reporting Individual reasonably believes is evidence of unlawful or otherwise improper conduct by a County employee or elected official.

### II. DEFINITIONS

2.01 As used in this policy, the following definitions apply:

- A. **“County”** means Yamhill County.
- B. **“Elected official”** means a Yamhill County elected official.
- C. **“County employee”** means a person employed by the County but does not include elected officials or independent contractors.
- D. **“Independent contractor”** means a person under contract with the County who performs services for the County or is otherwise authorized by contract to act on behalf of the County.
- E. **“Investigator”** means the individual assigned by the County to investigate and report on the alleged Prohibited Conduct and/or Unlawful Administration.
- F. **“Prohibited Conduct”** means conduct by a County employee, independent contractor, or elected official that constitutes either:
  - 1. A violation of any federal, state or local law, rule, regulation, or policy;
  - 2. Mismanagement, a gross waste of funds, or an abuse of authority; and/or
  - 3. Substantial and specific danger to public health and safety.

- G. **“Reporting Individual”** means any County employee, elected official, independent contractor, or member of the public who discloses information to a County employee or elected official that they reasonably believe is evidence of Prohibited Conduct or Unlawful Administration.
- H. **“Unlawful Administration”** means the administering of services, benefits, or assistance from the County to a person that is subject to a valid felony or misdemeanor warrant for arrest. Reports of Unlawful Administration are subject to ORS 659A.212(2), which requires an employee to promptly report the suspected Unlawful Administration to a supervisor.

### III. POLICY

#### 3.01 Reporting Improper Conduct.

- A. County employees, elected officials, and independent contractors shall disclose information that they reasonably believe is evidence of Prohibited Conduct or Unlawful Administration directly to the County Administrator, or if preferred, they may choose to first disclose the information to their direct managerial supervisor, or if their direct managerial supervisor is involved, to the managerial supervisor next higher.
- B. Reports of Prohibited Conduct or Unlawful Administration that are received from members of the public shall be immediately directed to the County Administrator, or a designee thereof. If the Prohibited Conduct or Unlawful Administration involves the County Administrator, the report should be directed to the County Counsel, or designee thereof.
- C. Elected officials and managerial supervisors receiving a report of Prohibited Conduct or Unlawful Administration from a Reporting Individual shall immediately report the matter to the County Administrator. If the Prohibited Conduct or Unlawful Administration involves the County Administrator, the report should be directed to the County Counsel, or designee thereof.
- D. The County Administrator shall determine if the report of Prohibited Conduct or Unlawful Administration has merit and if an investigation is needed. If an investigation is determined to be warranted, the County Administrator shall determine the manner in which the allegations will be investigated and shall assign an Investigator accordingly.

#### 3.02 Investigation Procedures.

- A. The investigation conducted pursuant to this policy shall be done in a timely, impartial, and fair manner. The investigation shall also be done in a manner that will not result in any unreasonable embarrassment to the subject(s) of the investigation or any witnesses. All County employees and officials shall cooperate in any investigation.
- B. When an investigation reveals that fraud or other criminal activity may be occurring or may have occurred, the Investigator shall immediately notify the appropriate law enforcement agency.

- C. When an investigation reveals that there may have been a violation of any provision of ORS Chapter 244, the Investigator shall immediately notify the Oregon Government Ethics Commission.
- D. Where there has been an alleged violation pursuant to Sections 3.02(B) or (C), the Investigator may elect to suspend the investigation, pending completion of the referral agency's review of the matter.

### 3.03 Investigative Report.

- A. Upon completion of the investigation, the Investigator shall prepare a written report setting forth the allegations and findings. This report shall be presented to the County Administrator. If the Prohibited Conduct or Unlawful Administration involves the County Administrator, the written report shall be presented to the County Counsel, or designee thereof.
- B. The investigative report shall be subject to disclosure pursuant to ORS 192.311 to 192.338, unless exempted from public disclosure by state or federal law, except that the identity of the Reporting Individual shall remain confidential.
- C. Should an investigation find that Prohibited Conduct or Unlawful Administration has occurred, the County shall take appropriate action. Such action may include, but is not limited to, initiating the implementation of discipline, modifying department procedures, and/or presenting the report to the Yamhill County Board of Commissioners for consideration of potential additional action.

### 3.04 Reporting Individual Protections.

- A. Any Reporting Individual who discloses information that they reasonably believe is evidence of Prohibited Conduct or Unlawful Administration shall not be retaliated against and, if a County employee, shall not be subjected to or threatened with disciplinary action for the disclosure.
- B. County officials and managerial supervisors may not require a Reporting Individual to give notice prior to making any disclosures or engaging in discussions pursuant to this policy.
- C. County officials and managerial supervisors may not discourage, restrain, dissuade, coerce, prevent, or otherwise interfere with disclosures or discussions of Prohibited Conduct or Unlawful Administration by County employees or officials.
- D. The name of the Reporting Individual shall be kept confidential unless waived in writing by the Reporting Individual.

### 3.05 Affirmative Defense.

- A. A Reporting Individual's good faith and objectively reasonable belief that Prohibited Conduct or Unlawful Administration has occurred shall be an affirmative defense to a civil or criminal charge related to the disclosure by the Reporting Individual of lawfully accessed information related to the alleged violation, including information that is exempt from disclosure as provided in ORS 192.340 to 192.360, or by County policy, if the information is provided to:
  - 1. A state or federal regulatory agency;

2. A law enforcement agency;
3. A manager, supervisor, or lead worker employed by the County;
4. An attorney licensed to practice law in the state of Oregon if a confidential communication is made in connection with the alleged violation described in this Section 3.05 and in furtherance of the rendition of legal services to the employee that are subject to ORS 40.225.

B. An employee may not assert the affirmative defense described in this Section 3.05 if the lawfully accessed information is disclosed or redisclosed by the employee or at the employee's direction to someone other than those listed above in subsection (A).

### 3.06 Reports of Retaliation.

A. An employee who believes they have been retaliated against for reporting Prohibited Conduct or Unlawful Administration should advise their supervisor, the County's Human Resources Director, or the County Administrator.

B. A County official receiving a report of retaliation shall take appropriate action to investigate and address complaints of retaliation.

C. A County employee who has been found to have retaliated against an employee for reporting, in good faith, Prohibited Conduct or Unlawful Administration shall be subject to disciplinary action.

### 3.07 Knowingly False Disclosure.

A. A County employee may be subjected to discipline, up to and including termination, if the information disclosed pursuant to this policy is known by the County employee to be false, if the County employee discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the County employee's own Prohibited Conduct or Unlawful Administration.

B. An independent contract may be subjected to immediate contract termination if the information disclosed pursuant to this policy is known by the Reporting Individual to be false, if the Reporting Individual discloses the information with reckless disregard for its truth or falsity, or if the information disclosed relates to the Reporting Individual's own Prohibited Conduct or Unlawful Administration.

3.08 Procedures in Addition to Other Rights. The rights, remedies, and procedures provided to County employees and elected officials by this policy are in addition to, and not in lieu of, any rights, remedies, and procedures provided under Yamhill County Code, County policy, a collective bargaining agreement, Oregon statutes, and/or federal law.

3.09 Civil Action Permitted. A Reporting Individual who believes they have been retaliated against for the reporting of Prohibited Conduct or Unlawful Administration may bring a civil action as provided by ORS 659A.215, or as otherwise permitted under federal law.

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