



**RESOLUTION**  
**(1 - 2017)**

**A RESOLUTION OF THE FAIRVIEW CITY COUNCIL ADOPTING NEW  
WHISTLEBLOWER PROVISIONS IN THE EMPLOYEE HANDBOOK**

**WHEREAS**, the Oregon Legislative Assembly passed House Bill 4067 (HB 4067) during the 2016 Regular Session; and

**WHEREAS**, HB 4067 contains new protections for public agency whistleblowers and also requires public agencies to adopt policies with these new protections, and

**WHEREAS**, HB 4067 went into effect on January 1, 2017; and

**WHEREAS**, the City Administrator has adopted this policy as of January 1, 2017 to ensure compliance with the new law but still needs City Council ratification of the new policy; and

**WHEREAS**, the City Council desires to adopt new whistleblower provisions to be included in its Employee Handbook to ensure compliance with state law.

**NOW, THEREFORE, BE IT RESOLVED BY THE FAIRVIEW CITY COUNCIL AS FOLLOWS:**

**Section 1**      The Fairview City Council ratifies the City Administrator's action and adopts the new whistleblower provisions to be included in the Employee Handbook as set forth in substantially the same form as Exhibit A.

**Section 2**      This resolution is and shall be effective from and after its passage by the City Council

Resolution adopted by the City Council of the City of Fairview, this 4th day of January, 2017.

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Mayor, City of Fairview  
Ted Tosterud

ATTEST

\_\_\_\_\_  
City Recorder, City of Fairview  
Devree Leymaster

1-12-2017

\_\_\_\_\_  
Date

## City of Fairview Employee Handbook

### (New Section 1.9)

#### 1.9 Whistleblower Protections

The City of Fairview does not discriminate against employees who invoke their rights under the Oregon Whistleblower Law.

##### A. Prohibited Conduct by the City

The City will not:

1. Prohibit any employee from discussing, in response to an official request, either specifically or generally the activities of a public body or any 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 City Council, or any elected auditor of a city, county, or metropolitan service district.
2. Prohibit any employee from disclosing, or take or threaten to take disciplinary action against an employee for the disclosure of any information that the employee reasonably believes is evidence of:
  - a) A violation of any federal or state or local law, rule or regulation by the City;
  - b) Mismanagement, gross waste of funds or abuse of authority, or substantial and specific danger to public health and safety resulting from action of the City; or
  - c) Subject to ORS 659A.212 (2), the fact that a person receiving services, benefits, or assistance from the City, is subject to a felony or misdemeanor warrant for arrest issued by this state, any other state, the federal government, or any territory, commonwealth or governmental instrumentality of the United States.
3. Require any employee to give notice prior to making any disclosure or engaging in discussion described in this section, except as allowed in ORS 659A.206 (1).
4. Discourage, restrain, dissuade, coerce, prevent or otherwise interfere with disclosure or discussions described in this section.

B. Additional Protections

An employee's good faith and objectively reasonable belief of a violation of federal, state or local law, rule or regulation by the City shall be an affirmative defense to a civil or criminal charge related to the disclosure by the employee of lawfully accessed information related to the violation, including information that is exempt from disclosure under the Oregon Public Records Law or by City policy if the information is provided to:

1. A state or federal regulatory agency;
2. A law enforcement agency;
3. A manager employed by the City; or
4. An attorney licensed to practice law in this state if a confidential communication is made in connection with the alleged violation and is in the course of providing legal services to the employee that is attorney-client privileged.

C. No Retaliation and Reporting Options

1. The City may not retaliate or invoke or impose any disciplinary action against an employee for employee activity described in this section or under the Oregon Whistleblower Law. Further 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 against an employee who has engaged in retaliatory conduct in violation of this policy.
2. Employees who wish to report potential improper or unlawful conduct should first talk to his or her supervisor. If you are not comfortable talking to your supervisor you are encouraged to contact the City Administrator.
3. An employee who is aggrieved by an unlawful practice as specified above may file a complaint with the state Bureau of Labor and Industries or they may file an action in circuit court.