

# TITLE 10

## SPECIAL ORDINANCES, REGULATIONS, RULES, POLICIES, AND BARGAINING AGREEMENTS

### SUBTITLE 3 — POLICIES

#### POLICY 44

#### DISCLOSURES OF IMPROPER GOVERNMENTAL CONDUCT

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#### I. BACKGROUND

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#### 44.010 Purpose

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(s).

[Adopted 2020-012 eff 1/22/20]

#### 44.020 Definitions

As used in this policy, the following definitions apply:

(A) “**County**” means Linn County.

(B) “**Investigator**” means the individual assigned by the County Administrative Officer to investigate and report on the alleged Prohibited Conduct and/or Unlawful Administration.

(C) “**Prohibited Conduct**” means conduct by a County employee(s) that constitutes: 1) a violation of any federal, state or local law, rule or regulation; 2) mismanagement, a gross waste of funds or an abuse of authority; 3) a present danger to public health and safety.

(D) “**Reporting Individual**” means any County employee, official, contractor, or member of the public who discloses information to a County employee or official that they reasonably believe is evidence of Prohibited Conduct or Unlawful Administration.

(E) “**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.

[Adopted 2020-012 eff 1/22/20]

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## II. PROHIBITED CONDUCT

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### 44.100 Retaliation for Disclosure Prohibited

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.

[Adopted 2020-012 eff 1/22/20]

### 44.110 Additional Prohibited Conduct

(A) 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.

(B) 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.

[Adopted 2020-012 eff 1/22/20]

### 44.120 Knowingly False Disclosure

A Reporting Individual may be subjected to discipline 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.

[Adopted 2020-012 eff 1/22/20]

### 44.130 Reporting Individual Confidentiality

The name of the Reporting Individual shall be kept confidential unless waived in writing by the Reporting Individual.

[Adopted 2020-012 eff 1/22/20]

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## III. DISCLOSURE & INVESTIGATION

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### 44.200 Initial Disclosure and Report to County Administrative Officer

(A) County employees, officials, and contractors shall disclose information that they reasonably believe is evidence of Prohibited Conduct or Unlawful Administration directly to the County Administrative Officer, 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) County 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 Administrative Officer.

(C) The County Administrative Officer 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 Administrative Officer shall determine the manner in which the allegations will be investigated and shall assign an Investigator accordingly.

[Adopted 2020-012 eff 1/22/20]

### 44.210 Investigation Procedures

(B) 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.

(C) 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.

(D) 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.

(E) Where there has been an alleged violation pursuant to Sections (C) or (D) above, the Investigator may elect to suspend the investigation, pending completion of the referral agency's review of the matter.

[Adopted 2020-012 eff 1/22/20]

#### **44.220 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 Administrative Officer.

(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 identify of the Reporting Individual shall remain confidential.

(C) Should an investigation find that Prohibited Conduct or Unlawful Administration has occurred, the County Administrative Officer shall take all necessary and 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 Board for additional action.

[Adopted 2020-012 eff 1/22/20]

#### **44.230 Procedures in Addition to Other Rights**

The rights, remedies, and procedures provided to County employees and officials by this policy are in addition to, and not in lieu of, any rights, remedies, and procedures provided under Linn County Code and Policies, Oregon statutes, and/or federal law.

[Adopted 2020-012 eff 1/22/20]

#### **44.240 Civil Action Permitted**

A Reporting Individual who believes s/he has 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.

[Adopted 2020-012 eff 1/22/20]

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#### **References and Authorities:**

ORS 659A.199 to 659A.224

#### **Legislative History of Policy 44:**

Adopted 2020-012 eff 1/22/20

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