

AN ORDINANCE OF THE TOWN OF YACOLT, WASHINGTON, relating to Reporting Improper Governmental Action and Protecting Employees Against Retaliation.

Section I. WHEREAS: the Town Council deems it is in the best interest of the Town of Yacolt to adopt this Ordinance, and now finds the adoption of this Ordinance is a proper and lawful exercise of the Town's powers and is necessary to promote the public health, safety and general welfare and bring about an orderly and safe Town:

Section II: BE IT ENACTED by the Town Council for the Town of Yacolt that the attached Reporting Improper Governmental Action and Protecting Employees Against RETALIATION POLICY is hereby adopted as policy of the Town of Yacolt. If any section, sub-section, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, void, or unenforceable such decision shall not affect the validity of the remaining portions of this Ordinance.

Section III. EFFECTIVE DATE: THIS Ordinance shall take effect and be in force five (5) calendar days after its passage and publication as provided by law.

PASSED AND APPROVED BY THE TOWN OF YACOLT, WASHINGTON, this 4 day of January 1993.

REPORTING IMPROPER GOVERNMENTAL ACTION AND PROTECTING EMPLOYEES AGAINST RETALIATION

It is the policy of the Town of Yacolt (1) to encourage reporting by its employees of improper governmental action taken by the Town Of Yacolt officer or employees and (2) to protect Town of Yacolt employees who have reported improper governmental actions in accordance with the Town of Yacolt's policies and procedure(s).

DEFINITIONS

As used in this policy the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a Town of Yacolt officer or employee:

- a. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and
- b. that (i) is in violation of any federal, state, or local law or rule. (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

II. "Retaliatory action" means any adverse change in the terms and conditions of a Town of Yacolt employee's employment.

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

PROCEDURES FOR REPORTING

Town of Yacolt employees who become aware of improper governmental actions should raise the issue first with their supervisor. If

requested by the supervisor, the employee shall submit a written report to the supervisor, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves his or her supervisor, the employee may raise the issue directly with the Town of Yacolt Mayor or such other person as may be designated by the Mayor to receive reports of improper governmental action. 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.

The supervisor, the Mayor or the Mayor's designee, as the case may be, shall take prompt action to assist the Town of Yacolt in properly investigating the report of improper governmental action. Town of Yacolt officers and employees involved in the investigation 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. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

Town of Yacolt employees may report information about improper governmental action directly to the appropriate agency with responsibility for investigating the improper action if the Town of Yacolt employee reasonably believes that an adequate investigation was not undertaken by the Town of Yacolt to determine whether an improper governmental action occurred, or that insufficient action has been taken by the Town of Yacolt to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

Town of Yacolt employees who fail to make a goodfaith attempt to follow the Town of Yacolt's procedures in reporting improper governmental action shall not receive the protections provided by the Town of Yacolt in these procedures.

PROTECTION AGAINST RETALIATORY ACTIONS

Town of Yacolt officials and employees are prohibited from taking retaliatory action against a Town of Yacolt Employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor, the Mayor or the Mayor's designee. Town of Yacolt officials and supervisors shall take appropriate action to investigate and address complaints of retaliation.

If the employee's supervisor, the Mayor, or the Mayor's designee, as the case may be, does not satisfactorily resolve a Town of Yacolt employee's complaint that he or she has been retaliated against in violation of this policy, the Town of Yacolt employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Yacolt Town Council that:

- a. Specifies the alleged retaliatory action and
- b. Specifies the relief requested.

Town of Yacolt employees shall provide a copy of their written charge to the Mayor no later than thirty (30) days after the occurrence of the alleged retaliatory action. The Town of Yacolt shall respond within thirty (30) days to the charge of retaliatory action.

After receiving either the response or the Town of Yacolt or thirty days after the delivery of the charge to the Town of Yacolt, the Town of Yacolt employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for hearing to the Mayor within the earlier fifteen (15) days of delivery of the Town of Yacolt's response to the charge of retaliatory action, or forty five (45) days of delivery of the charge of retaliation to the Town of Yacolt for response.

Upon receipt of a request for hearing, the Town of Yacolt shall apply within five (5) working says to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings
P.O. Box 42488, 4224 Sixth S.E.
Rowe Six, Bldg. 1
Lacey, WA. 98504-2488
(206) 459-6353

The Town of Yacolt will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or Without pay, or dismissed.

RESPONSIBILITIES

The Yacolt Town Council is responsible for implementing the Town of Yacolt policies and procedures (1) for reporting improper governmental action and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy and these procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request and (3) are provided to all newly-hired employees. Officers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including dismissal.

Adopted this 4 day of January 1993.

MAYOR Paul Groom ATTEST Irene Christiansen

AYES Councilmembers Mason, Kaski, Messer, Robertson, Smith

NAYES None

ABSENT None

I hereby certify that this is a true and correct copy of Ordinance # 342 as read before Council and passed on date herein metioned according to law.

Irene Christiansen
Irene Christiansen
Clerk/Treasurer