

BINGEN MUNICIPAL CODE

Chapter 2.44

WHISTLEBLOWER POLICY

Sections:

- 2.44.010 Policy statement.
- 2.44.020 Definitions
- 2.44.030 Procedures for reporting.
- 2.44.040 Protection against retaliatory actions.
- 2.44.050 Responsibilities.

2.44.010 Policy statement.

It is the policy of the city to encourage reporting by its employees of improper governmental action taken by city officers or employees and to protect city employees who have reported improper governmental actions in accordance with the city's policies and procedures(s). (Ord. 424 §1, 1994).

2.44.020 Definitions.

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

- A. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.
- B. "Improper governmental action" means an action by a Bingen officer or employee:
 - 1. 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
 - 2. That (a) is in violation of any federal, state, or local law or rule, (b) is an abuse of authority, (c) is of substantial and specific danger to the public health or safety or (d) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, 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.

- C. "Retaliatory action" means any adverse change in the terms and conditions of a city employee's employment (Ord. 424 §2, 1994).

2.44.030 Procedures for reporting.

- A. Bingen employees who become aware of improper governmental actions should raise the issues first with their supervisor. If requested by the supervisor, the employee shall submit a written report to the supervisor, or to some persons 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 Bingen mayor or such other person as may be designated by the mayor to receive reports of improper governmental action. Persons outside the city to whom it is appropriate to report information are the Washington State Auditor, the Washington State Attorney General and the Klickitat County prosecuting attorney.
- B. 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 investigation the improper action.
- C. The supervisor, the Bingen mayor or the mayor's designee shall take prompt action to assist the city in properly investigating the report of improper governmental action. Bingen officers and employees involve in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorized 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.
- D. Bingen employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the Bingen employee reasonably believes that an adequate investigation was not undertaken by the city to determine whether an improper governmental action occurred or that insufficient action has been taken by the city to address the improper governmental actions or that for other reasons the improper governmental action is likely to recur.
- E. Bingen employees who fail to make a good faith attempt to follow the city's procedures in reporting improper governmental actions shall not receive the protection provided by the city in these procedures. (Ord. 424 §3, 1994).

2.44.040 Protection against retaliatory actions.

- A. City officials are prohibited from taking retaliatory actions against a Bingen employee because he or she has in good faith reported an improper government action in accordance with these policies and procedures.
- B. Employees who believe that they have been retaliated against for reporting an improper governmental action should advise their supervisor, the Bingen mayor or the mayor's designee. City officials and supervisors shall take appropriate action to investigate and address complaints of retaliation.
- C. If the employee's supervisor, the Bingen mayor or the mayor's designee, as the case may be, does not satisfactorily resolve a city employee's complaint that he or she has been retaliated against in violation of this policy, the city employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Bingen council that:
 - 1. Specifies the alleged retaliatory action; and
 - 2. Specifies the relief requested.
- D. City employees shall provide a copy of their written charge to the mayor no later than thirty days after the occurrence of the alleged retaliatory action. The city shall respond within thirty days to the charge of retaliatory action.
- E. After receiving either the response of the city or thirty days after the delivery of the charge to the city, the city employee may request a hearing before a state administrative law judge to establish 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 of either fifteen days of delivery of the city's response to the charge of retaliatory action, or forty-five days of delivery of the charge of retaliation to the city for response.
- F. Upon receipt of request for hearing, the city shall apply within five working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings
PO Box 42488, 4224 Sixth S.E.
Rowe Six, Building 1
Lacey, Washington 98504-2488
(206) 459-6353
- G. The city will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed. (Ord. 424 §4, 1994).

2.44.050 Responsibilities.

The mayor is responsible for implementing the city's policies and procedures (1) for reporting improper governmental action and (2) for protecting employees against retaliatory actions. The city clerk is responsible for 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, (3) are provided to all newly hired employees and (4) include a list of agencies responsible for enforcing federal, state and local laws and investigate allegations of improper governmental action. Officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. (Ord. 424 §5, 1994).