

RESOLUTION NO. 1995-20

A RESOLUTION of the City Council of the City of Lakewood, Washington, establishing policies and procedures to encourage employees to report improper governmental action and to protect employees who have reported improper governmental action in accordance with the city's policies and procedures.

WHEREAS, Chapter 42.41 RCW requires local governments to adopt policies and procedures to encourage employees to report improper governmental action and to protect employees who report improper governmental action; and,

WHEREAS, the public interest is served by adopting such policies and procedures.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON HEREBY RESOLVES as follows:

Section 1. That the City of Lakewood Policy on Procedures for Reporting Improper Governmental Actions Under Local Government Employee Whistleblower Protection Act, a copy of which is attached hereto, marked as Exhibit "A" and incorporated herein by this reference, is adopted hereby.

Section 2. That this Resolution shall be in full force and effect on February 28, 1996, provided that the terms of this Ordinance shall also be in effect in the interim period prior to February 28, 1996.

PASSED by the City Council this 27th day of November, 1995.

CITY OF LAKEWOOD

Bill Houston
Mayor

Attest:

Ann M. Bush
City Clerk

Approved as to Form:

Alfred A. [Signature]
City Attorney

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EXHIBIT "A"

**CITY OF LAKEWOOD POLICY ON PROCEDURES
FOR REPORTING IMPROPER GOVERNMENTAL ACTIONS
UNDER LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER PROTECTION ACT**

POLICY STATEMENT

The City of Lakewood adopts this policy on procedures for reporting improper governmental actions as required by the Local Government Employment Whistleblower Protection Act, Chapter 44 Laws of 1992 (SSB 6321). It is the policy of the legislature that local government employees should be encouraged to disclose, to the extent not expressly prohibited by law, improper governmental actions of local government officials and employees. It is the purpose of the Act to protect local government employees who make good-faith reports to appropriate governmental bodies and to provide remedies for such individuals who are subjected to retaliation for having made such reports. This policy sets forth the appropriate procedures to follow for reporting such information. The adoption of this policy on procedures creates no affirmative duty not otherwise existing upon any employee to report improper governmental actions; creates no duties or obligations upon the City not otherwise existing; creates no benefit or right in any third party or employee not otherwise existing; and does not create, amend, or enlarge any contract between the City and any person.

DEFINITIONS

Unless the context clearly requires otherwise, these definitions apply throughout this policy on procedures:

(1) (a) "Improper governmental action" means any action by a local governmental officer or employee:

(I) 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

(ii) That is in violations of any federal, state or local law or rule, is an abuse of authority, is of substantial and specific danger to the public health or safety, or is a gross waste of public funds.

(b) "Improper governmental action" does not include personnel actions. Personnel actions include but are not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissal, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under Chapter 41.08, 41.12, 14.14,

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2. "Retaliatory action" means any adverse change in a local government employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action.

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

PROCEDURES FOR REPORTING

City of Lakewood 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 City of Lakewood City Manager or such other person as may be designated by the City of Lakewood City Manager to receive reports of improper governmental action.

The employee may also report the information to the Pierce County Prosecuting Attorney, whose offices are located in the Pierce County Courthouse. Except in case of an emergency, before a City employee provides information of an improper governmental action to a person or entity who is not listed above, the employee must submit a written report to the City.

The supervisor, the City Manager or the City Manager's designee, as the case may be, shall take prompt action to assist the City in properly investigating the report of improper governmental action. City 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.

City employees who fail to make a good faith attempt to follow these procedures in reporting improper governmental action shall not receive the protections provided by the Local Government Employees Whistleblower Protection Act.

EMPLOYEE PROTECTION AGAINST RETALIATORY ACTION

The City of Lakewood will not take retaliatory action against any of its employees because the employee in good-faith provided information that an improper governmental action occurred in accordance with the Local Government Employee Whistleblower Protection Act. To obtain relief under the Act, any employee who believes he/she has been retaliated against for reporting improper governmental action shall provide a written notice of the charge of retaliatory action to the

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Lakewood City Manager. The notice shall specify the alleged retaliatory action and the relief requested. The charge must be delivered to the City no later than thirty (30) days after the occurrence of the alleged retaliatory action. The City shall have thirty (30) days to respond. After receipt of the City's response or after the last day upon which the City could respond, the employee may within fifteen (15) days request a hearing to be held before an administrative law judge. The employee's request for hearing shall be delivered to the City Manager within the fifteen (15) day period. Upon receipt of request for hearing, the City shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge. At the hearing, the employee carries the burden of proving his or her claim by a preponderance of the evidence. The final decision of the administrative law judge is subject to review as set forth in the Act.

AVAILABILITY/AMENDMENT OF POLICY ON PROCEDURES

The City will post this policy on procedures, or a summary thereof, in a place where all employees will have reasonable access to it. A copy of this policy on procedures, or a summary thereof, will be made available to any employee upon request. The City reserves the right to amend this policy on procedures at any time and at will, and will post and make available upon request any such amendments.