16. Whistle Blower Policy

The County strives to conduct operations with the utmost integrity and in strict accordance with all applicable federal, state and local laws. Accordingly, employees are encouraged to bring to the attention of the County any improper conduct of County officials, employees, volunteers or agents of the County. The County will not retaliate against any employee who makes such a disclosure in good faith and in accordance with the procedures set forth in this Rule.

For purposes of this Rule, improper conduct is any action undertaken by an officer, employee, volunteer or agent of the County in the performance of his or her official duties which (a) is in violation of any federal, state or local law; (b) constitutes an abuse of authority; (c) creates a substantial and specific danger to public health or safety; or (d) grossly wastes public funds. Improper conduct does not include common personnel actions, such as the processing of complaints, decisions regarding hiring, promotion, dismissal and other discipline, or grievances arising out of collective bargaining agreements, employment contracts, or County policies or procedures.

16.1 **Reporting Improper Conduct.** Misconduct can often be corrected most expeditiously if handled internally. Accordingly, an employee who has a good faith belief that improper conduct has occurred, or is about to occur, must first raise that concern with the County. Specifically, except as provided in Section 16.6 of this Rule, the employee must submit his or her concerns and related information, in writing, to the Department Head of the department in which the employee works. In the event that the complaint concerns the Department Head or if the employee has other concerns regarding reporting to the Department Head, the complaint shall be submitted to the Human Resources Director. The identity of the reporting employee shall be kept confidential to the extent possible under law, unless the reporting employee authorizes disclosure.

16.2 **Investigation and Response.** The County shall have fifteen (15) working days to address a complaint raised by a reporting employee and to provide the reporting employee with a written response which identifies the alleged improper conduct at issue, describes the scope and findings of the investigation and states what, if any, action, will be taken to correct any finding of improper conduct. If, in the County's opinion, the breadth of an investigation necessitates additional time to respond, the County shall provide a written notice to the reporting employee within fifteen (15) days notifying the employee of the estimated time to provide a written response.

16.3 **Request for Reconsideration.** If a reporting employee is not satisfied with an investigation response and/or resolution of the complaint, the reporting employee may request reconsideration, in writing, within five (5) working days of receipt of the County's response. Written requests for reconsideration must be submitted to the Human Resources Director or designee and must identify the specific elements of the County's investigation or written response which the reporting employee finds unsatisfactory. The

County has five (5) working days to notify the reporting employee, in writing, as to whether reconsideration is granted. Reconsideration will be limited to examination of the specific issues raised in a written request for reconsideration. The County will have ten (10) working days from the date reconsideration is granted to complete its additional investigation and provide the employee with a written response.

16.4 **Disclosing Improper Conduct to Outside Agencies.** If, after a request for reconsideration, a reporting employee is still dissatisfied with the County's investigation or response, the employee may disclose the improper conduct to an outside agency or organization for further review, provided that such outside agency or organization has regulatory authority over the issue which is the subject of the complaint. Employees must exhaust the internal complaint process before reporting to an outside agency or organization unless an employee can establish that persons or property will suffer substantial or irreversible damage if the alleged improper conduct is not immediately reported to an outside agency or organization.

16.5 **Retaliation Prohibited.** Employees who comply with this Rule and who, in good faith report improper conduct, as defined in this Rule, shall not be subject to discipline or dismissal for reporting, disclosure or other activities within this Rule. If an employee believes there has been retaliation for reporting improper conduct in accordance with this Rule, the employee shall report, in writing, such alleged retaliation to the Human Resources Director, who shall investigate and respond appropriately.

16.6 **Whistleblower Protection (ORS 659A.200 and 659A.203).**

16.6.1 Notwithstanding the foregoing, no employee is prohibited from discussing, either specifically or generally with any member of the Legislative Assembly, legislative committee staff acting under direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision in the state or any elected auditor of a city, county or metropolitan service district, the activities of the County or any person authorized to act on behalf of the County. No employee shall be subject to disciplinary action for employee actions described in this section.

16.6.2 Disclosure. No employee shall be disciplined or threatened with discipline for disclosing any information that the employee reasonably believes is evidence of:

A. A violation of any federal or state law, rule or regulation of the County;
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 County; or
C. Subject to ORS 659A.212(2), the fact that a person receiving services, benefits or assistance from the County, is subject to a felony or misdemeanor warrant for arrest issued by the state of Oregon, any other state, the federal government, or any territory, commonwealth governmental instrumentality of the United States.

16.6.3 No employee shall be required to give notice to the County prior to making any disclosure under this Section, except as required in ORS 659.206(1).

16.6.4 No employee shall be discouraged, restrained, dissuaded, coerced, prevented or otherwise interfered with when making disclosures or engaging in discussions under this Section.

16.6.5 Public Record Disclosures. An employee's good faith and objectively reasonable belief of a violation of federal, state or local law, rule or regulation by the employer shall be an affirmative defense to a civil or criminal charge related to the disclosure by the employee of lawfully accessed information related to a violation, including information that is exempt from disclosure pursuant to ORS 192.338, 192.345 and 192.355, if the information is provided to:

- A state or federal regulatory agency;
- A law enforcement agency;
- A manager employed by the County;
- An attorney licensed to practice law in the state of Oregon if a confidential communication is made in connection with the alleged violation described in this Section and in furtherance of the rendition of legal services to the employee that are subject to ORS 40.225.

An employee may not assert an affirmative defense described if the information:

- Is disclosed or re-disclosed by the employee or at the employee's direction to a party other than the parties listed above;
- Is stated in a commercial exclusive negotiating agreement with the County, provided that the agreement is not related to the employee's employment with the County;
- Is stated in a commercial nondisclosure agreement with the County, provided that the agreement is not related to the employee's employment with the County.

An affirmative defense described in this Section is available to an employee who discloses information related to an alleged violation by a co-worker or supervisor described in this Section if the disclosure relates to the course and scope of employment of the co-worker or supervisor.

An affirmative defense described in this Section may not be asserted by an employee who is an attorney or by an employee who is not an attorney but who is employed, retained, supervised or directed by an attorney if the information disclosed pursuant to this Section is related to the representation of the County.

Disclosure made under this Section is subject to the rules of professional conduct established pursuant to ORS 9.490.

Subject to the rules of professional conduct established pursuant to ORS 9.940, a public employee who is an attorney may report to the Attorney General the employee's knowledge of a violation of federal, state or local law, rule or regulation by the County.

Disclosure of information pursuant to this Section does not waive the attorney-client privilege or affect the applicability of any exemption from disclosure of a public record under ORS 192.501 to 192.505.

16.6.6 Notwithstanding the provisions of this Section, information protected from disclosure under federal law, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191), may be disclosed only in accordance with federal law.

16.6.7 Other Opportunities for Reporting. The procedures specified herein are for the purpose of reporting allegations of improper governmental conduct. These procedures are not exclusive and do not replace procedures for employees to bring complaints or grievances pertaining to their employment. Specifically, County employees maintain their rights pursuant to other sections of these Personnel Rules, the Civil Service Rules and/or collective bargaining agreement to appeal discipline and County policies or actions; and any rights they may have pursuant to federal and state law to pursue civil complaints.

16.6.8 Implementation. Elected officials and Department Heads are expected to be knowledgeable of and shall be responsible for, implementing this policy within their respective departments. Observance of this policy is mandatory for all County employees and violation may result in disciplinary action, up to and including termination.

17. Employee Responsibilities

17.1 **Purpose.** The orderly and efficient operation of County government requires that employees abide by certain responsibilities. Work rules governing personal standards of conduct as well as standard operating procedures are necessary to protect the health and safety of all employees, to maintain uninterrupted service and to protect the County's property. All employees are reminded that the County is a professional, business organization and its employees are expected to conduct themselves accordingly. All employees shall actively work to provide the best possible service and promote the highest quality of public service.

17.2 **Work Rules.** The following work rules shall apply to all County employees. These are not intended to be all inclusive and the County may amend this Rule to ensure the effective operation of County government.

A. Employees (FLSA non-exempt) shall be at their designated work area on time and ready to work. Employees shall, except for regular breaks and meal periods, remain at work until the scheduled quitting time unless permission to leave is granted by a supervisor. Employees shall maintain their work areas in a clean and neat fashion.

B. Where operations are continuous, employees shall not leave their positions until replaced by the next shift employee or until relieved by a supervisor.

C. Employees shall follow all safety regulations including wearing protective clothing and using protective equipment. Employees shall immediately report safety hazards, accidents or injury to their supervisors.

D. Employees shall be responsible for and not misuse County property, records, or other materials in their care, custody and control.

E. Employees shall deal with the public in a courteous and professional manner.

F. Employees shall deal with fellow employees, County officials and other governmental agencies in a courteous, professional and effective manner.

G. Employees shall immediately report to their supervisors any inability to work and the reason therefore.

H. Employees shall update their personal information in the personnel system when there is a change in their personal data affecting their personnel or payroll records. Some employees do not have access to the personnel system and those employees shall provide updated information to the Human Resources Director.

I. Employees shall not restrict or interrupt work or interfere with/interrupt the work of others.

J. Employees shall be able to perform the essential duties of their jobs when they report for work and at all times during work, with or without accommodation.

K. Employees shall not neglect their duties and responsibilities or refuse to perform assigned work unless to perform such work would constitute a safety hazard. Employees must report safety hazards.

L. Employees shall not engage in conduct that reflects discredit on the County while on duty.

M. Employees shall not engage in political activity while on duty.

N. Employees shall not use their positions for personal gain, to solicit or conduct personal business or to coerce others.

O. Employees shall not use their positions to obtain information that is not necessary to perform their duties. Employees shall use the public records process, on their personal time, to obtain any such information.

P. Employees shall not possess unauthorized firearms, weapons, or drug/intoxicants while on duty or on County premises. Employees who are specifically assigned a duty firearm are not in violation of this rule related to firearms/weapons if they are otherwise in compliance with parameters of their assignments.

Q. All reports, records or claims completed by employees, verbally or in writing, shall be true and accurate, to the best of their knowledge.

R. Employees shall not remove County property or the property of other employees from the workplace without express approval of their supervisor or the owner of such property. Employees shall not use County property for personal financial gain or to avoid a personal financial detriment.

S. Employees shall not violate any federal, state, or local laws, rules or regulations while on duty or on County premises.

T. Employees shall comply with all County rules, policies and procedures. Employees are expected to be knowledgeable about the County's rules, policies and procedures.