



CO00038261

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ORDINANCE NO. 09-024

RELATING TO THE CODE OF ETHICS;  
REVISING COMPLAINT PROCEDURES FOR COMPLAINTS  
AGAINST COUNTY COUNCILMEMBERS, CANDIDATES FOR COUNTY COUNCIL  
POSITIONS, AND COUNCILMEMBERS-ELECT;  
REPEALING THE SUNSET PROVISION;  
AMENDING CHAPTERS 2.50 AND 2.76 SCC

WHEREAS, Chapter 2.50 SCC comprises Snohomish County's Code of Ethics;  
and

WHEREAS, in 1991 the County Council repealed and re-enacted the Code of  
Ethics including SCC 2.50.700, the sunset provision, as required by Snohomish County  
Charter Section 2.115;

WHEREAS, in 1997 and 2003 the County Council extended the sunset provision  
by six years; and

WHEREAS, the sunset provision repeals the Code of Ethics on July 1, 2009; and

WHEREAS, the County Council desires to repeal the sunset provision rather  
than extend the sunset provision for another six years; and

WHEREAS, the Clerk of the Council has served as the Clerk of the Ethics  
Commission and the County Council has provided staff support for the Ethics  
Commission; and

WHEREAS, the processing of complaints against councilmembers, candidates  
for county council positions and councilmembers-elect by staff employed by the County  
Council may present the possibility of an appearance of conflict of interest; and

WHEREAS, the County Council desires to avoid even the appearance of a  
conflict of interest in the processing of ethics complaints; and

WHEREAS, the staff of the Board of Equalization could process complaints  
against councilmembers without the same appearance of conflict of interest as Council

1 staff;

2  
3 NOW, THEREFORE, BE IT ORDAINED:  
4

5 Section 1. Snohomish County Code Section 2.50.090, reenacted by Amended  
6 Ordinance No. 03-067 on June 18, 2003, is amended to read:  
7

8 **2.50.090 Membership -- Term of office.**

9 (1) The term of each member shall be three years, except that one of the two  
10 new members appointed to implement the expansion of the membership from three to  
11 five commissioners shall serve an initial term of two years, as determined by the  
12 drawing of lots. ~~((Staff support for the commission shall be provided by the county as  
13 necessary.))~~

14 (2) No member of the commission, during his or her tenure, shall:

- 15 (a) hold or be a candidate for elective office;  
16 (b) be an officer of any political party or political committee;  
17 (c) make contributions to, or permit his or her name to be used in support  
18 of, or in opposition to, any candidate for county office;  
19 (d) lobby or employ or assist a lobbyist;

20 (3) No person shall be eligible for appointment to more than two three-year  
21 terms, except as provided in subsection (4) below.

22 (4) An individual appointed to fill a vacancy occurring other than by the  
23 expiration of a term of office shall be appointed for the unexpired term of the member he  
24 succeeds, but shall be eligible for appointment to two full three-year terms thereafter  
25 only if one year or less remains in the term he is appointed to fill. Any vacancy occurring  
26 on the commission shall be filled within 60 days in the manner in which that position  
27 was originally filled. A vacancy shall not impair the powers of the remaining members to  
28 exercise all the powers of the commission.  
29

30 Section 2. A new section 2.50.095 is added to Snohomish County Code chapter  
31 2.50 to read:  
32

33 **2.50.095 Commission staff.**

34 Except for the performance of those duties assigned to the clerk of the board of  
35 equalization by SCC 2.50.110 and 2.50.115, the clerk of the county council shall serve  
36 as clerk of the commission. Staff support for the commission shall be provided by the  
37 county as necessary. In circumstances in which the clerk of the board of equalization  
38 serves as ex officio clerk of the commission, staff support for the commission shall be  
39 provided by staff of the board of equalization.  
40

41 Section 3. Snohomish County Code Section 2.50.110 reenacted by Amended  
42 Ordinance No. 03-067, on June 18, 2003, is amended to read:  
43

44 **2.50.110 Complaint procedures.**

1 (1) Any natural person who believes a person subject to the code of ethics has  
2 committed a violation of the code may file a complaint with the ethics commission.  
3 Complaints shall be subject to the following requirements:

4 (a) The complaint must be based upon facts within the personal  
5 knowledge of the complainant;

6 (b) The complaint must be submitted in writing and signed under oath by  
7 the complainant;

8 (c) The complaint must include a detailed factual description of the  
9 alleged violation including the date, time and place of each occurrence and the name of  
10 the person or persons who are alleged to have committed a violation. The complaint  
11 must also refer to the specific provisions of the code of ethics which are alleged to have  
12 been violated;

13 (d) The complaint must be accompanied by all available documentation or  
14 other evidence known to the complainant to support the allegations of the complaint;

15 (e) The complaint must be filed within five years of the date of the  
16 occurrence or occurrences alleged to constitute a violation of the code of ethics.

17 (2) Complaints shall be filed with the clerk of the ethics commission. Except for  
18 complaints alleging a violation by a member of the county council, a candidate for a  
19 county council position, or a councilmember-elect, the clerk shall process the complaint  
20 as provided in the following subsections of this section. The clerk shall immediately  
21 forward complaints alleging a violation by a member of the county council, a candidate  
22 for a county council position or a councilmember-elect to the clerk of the board of  
23 equalization who shall serve as ex officio clerk of the ethics commission for the  
24 processing of such complaints as provided in the following subsections of this section.

25 (3) The clerk ~~((whø))~~ shall forward the complaint and any accompanying  
26 documentation and evidence forthwith to the chairperson of the ethics commission. The  
27 chairperson shall review the complaint for compliance with the requirements of  
28 subsection (1) of this section. Should the chairperson find that:

29 (a) The complaint is untimely; or

30 (b) The complaint has not been signed under oath; or

31 (c) The complaint does not, on its face, state facts which, if proven to be  
32 true, constitute a violation of the code of ethics referred to in the complaint; or

33 (d) The complaint fails to refer to a specific provision of the code of ethics  
34 which is alleged to have been violated, the chairperson shall, within five working days of  
35 the filing of the complaint, enter a written order stating the chairperson's findings and,  
36 except as hereinafter provided, dismissing the complaint. If the chairperson finds that  
37 the complaint is deficient pursuant to findings (b) or (d), the chairperson shall issue an  
38 order notifying the complainant that unless a corrected complaint is filed within 5 days of  
39 the issuance of such order, the complaint shall be dismissed. The complainant may  
40 appeal the dismissal of a complaint under this subsection by filing an action in the  
41 Snohomish County Superior Court for a Writ of Certiorari pursuant to Chapter 7.16  
42 RCW within 10 days of the date of issuance of the order dismissing the complaint.

43 ~~((3))~~(4) For complaints which are not dismissed under subsection ~~((2))~~(3), the  
44 chairperson shall direct the clerk to serve a complete copy of the complaint and any  
45 accompanying documentation and evidence to the person (hereinafter referred to as the  
46 respondent) alleged to have committed a violation of the code of ethics. The clerk shall

1 serve a copy of the complaint and accompanying information upon the respondent by  
2 certified mail or by personal service not later than seven working days following the  
3 filing of the complaint.

4 ~~((4))~~(5) The respondent shall, within twenty days of the date of mailing or  
5 personal service of the complaint by the clerk of the commission, file with the clerk any  
6 response to the complaint the respondent wishes to make. A response to a complaint  
7 shall be made in writing signed under oath by the respondent. A response may include  
8 a detailed statement of facts pertaining to the complaint made on personal knowledge of  
9 the respondent and may include any matter constituting a defense to the complaint. A  
10 response should be accompanied by all available documentation or other evidence  
11 known to the respondent which the respondent wishes the commission to consider. The  
12 respondent may stipulate to some or all of the facts alleged in the complaint and shall  
13 either admit or deny the alleged violation. If the violation is admitted, the respondent  
14 may also submit an explanatory statement and may request a particular disposition.

15 ~~((5))~~(6) Upon receipt of a response to a complaint, the chairperson shall review  
16 the complaint and response, together with all supporting documentation and evidence  
17 submitted by the complainant and the respondent. Within ten days of receipt of the  
18 response (or, if no timely response is submitted, within thirty days of the date of mailing  
19 the complaint to the respondent by the clerk of the commission), the chairperson shall  
20 issue a preliminary decision in writing. A preliminary decision shall include one of the  
21 following determinations:

22 (a) Determine that a hearing is necessary in order to obtain a clear  
23 determination of the facts relevant to the complaint; or

24 (b) Determine that, based upon the complaint and response, the facts  
25 relevant to the complaint are clearly established and no hearing is necessary.

26 ~~((6))~~(7) When a preliminary decision is issued pursuant to subsection  
27 ~~((5))~~(6)(b), it shall contain findings and conclusions and a disposition of the complaint.  
28 If the chairperson concludes a violation of the code of ethics was committed, the  
29 preliminary decision shall include a penalty as provided for in section 2.50.160. Copies  
30 of the preliminary decisions shall be served forthwith on all members of the commission  
31 by the clerk. Until it becomes a final decision, a preliminary decision issued pursuant to  
32 subsection ~~((5))~~(6)(b) shall be confidential and shall not be released to either the  
33 complainant, the respondent, or any other person with the exception of commission  
34 members and commission staff. Commission members may either concur in the  
35 preliminary decision or request a hearing. A hearing on the complaint before the full  
36 commission shall be scheduled by the clerk if a request for hearing is filed with the clerk  
37 by one or more commission members within ten days of the issuance of the preliminary  
38 decision, PROVIDED: that commission members shall have 15 days from the date of  
39 issuance of the preliminary decision to request a hearing if the chairperson so provides  
40 in the preliminary decision. If a commission member does not file a timely request for  
41 hearing, it shall be conclusively presumed that the commission member concurs in the  
42 preliminary decision.

43 ~~((7))~~(8) If no timely request for hearing is made by any commission member, a  
44 preliminary decision issued pursuant to subsection ~~((5))~~(6)(b) shall become a final  
45 decision of the commission and shall be signed and dated by the commission  
46 chairperson within two working days following the expiration of the review period

1 provided in subsection ~~((6))~~(7) above. The clerk shall immediately notify the  
2 complainant and the respondent of the final decision and shall deliver a copy of the final  
3 decision to each of them and to any other person who has submitted a written request  
4 therefore. Either the complainant or the respondent may, within thirty days of the date of  
5 the final decision, appeal it to the Snohomish County Superior Court by writ of certiorari  
6 pursuant to Chapter 7.16 RCW.

7 ~~((8))~~(9) When a decision to hold a hearing is issued pursuant to subsection  
8 ~~((5))~~(6)(a) or when a request for hearing is filed by a commission member pursuant to  
9 subsection ~~((6))~~(7), the clerk shall schedule a hearing not more than thirty days from  
10 the date of the preliminary decision and shall mail written notice of the hearing to the  
11 complainant, the respondent, each member of the commission and to any other person  
12 who has submitted a written request therefore. In addition, notice shall be provided by  
13 publication in the official county newspaper not less than five days prior to the date of  
14 the hearing.

15 ~~((9))~~(10) All hearings on complaints before the ethics commission shall be de  
16 novo and a preliminary decision issued pursuant to subsection ~~((5))~~(6)(b), if any, shall  
17 have no force or effect and shall remain confidential. The parties may appear in person  
18 or through attorneys. Hearings shall be conducted in accordance with the following  
19 provisions:

20 (a) The complainant shall have the burden to prove by a preponderance  
21 of evidence that the violation or violations alleged in the complaint occurred.

22 (b) Not less than two days prior to the hearing date, the complainant and  
23 respondent shall each file with the clerk and serve upon the other party, a list of  
24 witnesses they wish to call at the hearing. Only those witnesses whose names appear  
25 on the witness lists may testify at the hearing. In exceptional circumstances and for  
26 good cause shown, the commission chairperson may, in his or her discretion, permit  
27 additional witnesses to testify.

28 (c) At the commencement of the hearing, the commission chairperson  
29 shall ask the parties to provide an estimate of the time required to present their  
30 evidence and arguments. The chairperson shall then issue an order establishing a  
31 reasonable limit on the time for each party to present his or her case which shall be  
32 equal for each party. The complainant may divide his or her allotted time between an  
33 opening presentation and rebuttal of the respondent's case. Each party may present  
34 opening and closing arguments.

35 (d) All testimony shall be given under oath administered by the clerk of  
36 the commission. Subject to control by the chairperson, each party shall be permitted to  
37 cross-examine the witnesses of the other party.

38 (e) The clerk shall electronically record all proceedings and shall assign  
39 exhibit numbers to, and become the custodian of, all documentary evidence.

40 (f) The chairperson shall have full authority to regulate the conduct of the  
41 hearing and may take any actions reasonably necessary to maintain an orderly  
42 proceeding. The chairperson may continue a hearing to a date and time certain should  
43 the chairperson determine that such continuance is necessary.

44 ~~((10))~~(11) At the conclusion of a hearing on a complaint, the commission shall  
45 deliberate and enter its oral decision which shall include findings and conclusions in  
46 support of the decision. The chairperson shall direct commission staff to prepare a draft

1 written decision reflecting the commission's oral decision and shall continue the hearing  
2 to a date and time certain for commission consideration and approval of the written  
3 decision. The final written decision shall be signed and dated by the commission  
4 chairperson. The clerk shall deliver a copy of the final written decision to each party and  
5 to any other person who has submitted a written request therefore.

6 ~~((11))~~(12) A final written decision may, within thirty days of the date of the  
7 written decision, be appealed by either the complainant or the respondent to the  
8 Snohomish County Superior Court by writ of certiorari pursuant to Chapter 7.16 RCW.

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10 Section 4. Snohomish County Code Section 2.50.115 reenacted by Amended  
11 Ordinance No. 03-067, on June 18, 2003, is amended to read:

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13 **2.50.115 Complaints filed close to elections -- Limitations on filing --**  
14 **Expedited proceedings.**

15 (1) From the date four weeks prior to any election through and including the date  
16 of the election, only those complaints may be filed which allege a violation of the code of  
17 ethics which occurred not more than one week prior to the date of filing the complaint.  
18 Except for complaints alleging a violation by a member of the county council, a  
19 candidate for a county council position or a councilmember-elect, the clerk shall process  
20 the complaint as provided in the following subsections of this section. The clerk shall  
21 immediately forward complaints alleging a violation by a member of the county council,  
22 a candidate for a county council position or a councilmember-elect to the clerk of the  
23 board of equalization who shall serve as ex officio clerk of the ethics commission for the  
24 processing of such complaints as provided in the following subsections of this section.

25 (2) Immediately upon receipt of such a complaint, the clerk shall notify the  
26 chairperson and the respondent named in the complaint and shall deliver a copy of the  
27 complaint and its supporting documentation and evidence to them. Copies shall also be  
28 delivered forthwith to the remaining commission members. The clerk's notice to the  
29 respondent shall also state that the respondent may file a written response to the  
30 complaint within 5 days of the date the complaint was filed with the commission.

31 ~~((2))~~(3) Immediately upon receipt of the complaint, the chairperson shall review  
32 the complaint pursuant to subsection 2.50.110~~((2))~~(3) and, if the complaint is  
33 defective, shall, within two days of the filing of the complaint, enter an order stating the  
34 chair-person's findings and dismissing the complaint.

35 ~~((3))~~(4) For those complaints which are not dismissed under subsection  
36 ~~((2))~~(3) above, the clerk shall confer with the commission chairperson and shall set a  
37 date and time for an expedited hearing on the complaint to be held not less than five nor  
38 more than ten days from the date of filing the complaint.

39 ~~((4))~~(5) The clerk shall deliver to the complainant, the respondent and each  
40 commission member a notice of expedited hearing on the complaint. Notice of the  
41 expedited hearing shall also be delivered to any person who has, at or prior to the time  
42 the complaint is filed, submitted a written request therefore. Notice of the hearing shall  
43 be published once in the official county newspaper prior to the hearing.

44 ~~((5))~~(6) The expedited hearing shall be conducted in accordance with  
45 subsections ~~((2.50.110(9), (10) and (11)))~~ 2.50.110 (10), (11) and (12) except that the  
46 parties shall not be required to file witness lists prior to the hearing.

1 Section 5. Snohomish County Code Section 2.50.700, last amended by  
2 Amended Ordinance 03-067 on June 18, 2003 is hereby repealed.


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4 Section 6. Snohomish County Code Section 2.76.050, last amended by  
5 Ordinance 82-079 on August 18, 1982 is amended to read.

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7 **2.76.050 Assistants.**

8 The board of equalization may appoint a clerk and such assistants, legal advisors  
9 and appraisers as are necessary to perform its functions as authorized by chapter 84.48  
10 RCW and chapter 458-14 WAC and as provided in such budget as is approved by the  
11 county council. The appointment of clerk and assistants shall be subject to the approval  
12 of the county council. In addition to performing the duties of clerk of the board of  
13 equalization, the clerk shall also perform the duties of ex officio clerk of the ethics  
14 commission in accordance with SCC 2.50.110 and 2.50.115.

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16  
17 PASSED this 22<sup>nd</sup> day of April, 2009.

18  
19 SNOHOMISH COUNTY COUNCIL  
20 Snohomish County, Washington

21  
22   
23 \_\_\_\_\_  
24 Chairperson

25 ATTEST:

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27 \_\_\_\_\_  
28 Clerk of the Council, *ASST.*

29  
30  APPROVED

31  
32 ( ) EMERGENCY

33  
34 ( ) VETOED

35  
36  
37  
38 DATE: 4/28/09

39 ATTEST:

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41 \_\_\_\_\_

42   
43 \_\_\_\_\_  
44 County Executive  
45 **MARK SOINE**  
46 **Deputy Executive**

47 Approved as to form only:

48   
49 \_\_\_\_\_ 3/16/09  
50 Deputy Prosecuting Attorney

D-14