

Adopted: 06/07/17

Effective: 06/19/17

1 SNOHOMISH COUNTY COUNCIL
2 SNOHOMISH COUNTY, WASHINGTON

3
4 AMENDED ORDINANCE NO. 17-019

5
6 RELATING TO RISK MANAGEMENT AND INSURANCE;
7 AMENDING CHAPTER 2.90 SCC
8

9
10 BE IT ORDAINED:

11
12 Section 1. Snohomish County Code Section 2.90.020, last amended by
13 Ordinance No. 07-045 on June 6, 2007, is amended to read:

14
15 **2.90.020 Definitions.**

16
17 As used in this chapter, the following words and terms shall have the meanings
18 set forth herein:

19
20 (1) "Auditor" means the Snohomish county auditor;

21
22 (2) "Claim" means any claim for damages based on alleged conduct of the
23 county, or employee(s), officers, or volunteers of the county arising while performing
24 or in good faith purporting to perform his or her official duties as set forth in RCW
25 4.96.020 as presently enacted or hereafter amended.

26
27 (3) "Council" means the Snohomish county council;

28
29 (4) "Executive" means the Snohomish county executive or his/her designee;

30
31 (5) "Incident" means any accident, event, activity, or series of events involving
32 one or more individuals which may result in the filing of a formal claim for damages or
33 reimbursement. An incident report shall not constitute a formal claim for damages.

34
35 (6) "Insurance fund" means that fund provided in Title 4 SCC;

36
37 (7) "Lawsuit" means any lawsuit, including any lawsuit brought pursuant to Ch.
38 4.96 RCW as presently enacted or hereafter amended, naming the county or
39 employee, officer or volunteer of the county for acts or omissions arising while
40 performing or in good faith purporting to perform his or her official duties, as defendant
41 or third party defendant, and seeking, at least in part, money damages;
42

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1 (7) "Prosecuting attorney" means the prosecuting attorney of Snohomish county
2 and such regular and special deputies as are assigned to perform functions referred to
3 herein;

4
5 (8) "Risk management" shall mean a coordinated and continuous management
6 process to identify and analyze potential loss exposures, to apply where possible
7 reasonable and effective processes to transfer or reduce the risk of loss so as to
8 preserve the assets of Snohomish county. Risk management shall include insurance
9 purchase and management of insurance policies for the county, the determination and
10 setting of adequate reserves in the county insurance fund, claims management,
11 providing legal defense to the county, loss prevention, and management of safety and
12 industrial insurance programs;

13
14 (9) "Risk manager" shall mean the ~~((director))~~manager of the department of
15 finance, ~~((or the director's designee))~~ risk management division.

16
17 (10) "Designated insurance broker" means an insurance broker who is under
18 contract to provide assistance to the risk management committee.

19
20 Section 2. Snohomish County Code Section 2.90.025, last amended by
21 Amended Ordinance No. 96-006 on March 13, 1996, is amended to read:

22
23 **2.90.025 Risk management committee created.**

24
25 (1) There is hereby created a Snohomish County risk management committee
26 composed of the following:

27
28 (a) ~~((Director of human resources or designee))~~Executive or designee;

29
30 (b) Director of budget and finance or designee;

31
32 (c) Prosecuting attorney or designee;

33
34 (d) ~~((Executive))~~Risk manager or designee who shall serve as chair;

35
36 (e) Member designated by county council or designee.

37
38 (2) The risk management committee is charged with the function of overseeing
39 the county's risk management activities, which includes but is not limited to approving
40 the selection of insurance brokers chosen as a result of a competitive procurement
41 process; advising the risk manager on matters concerning the purchase of insurance
42 policies; advising the risk manager on the design of insurance and funded self-
43 insurance programs; and approving the purchase of all insurance policies.

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2 Section 3. Snohomish County Code Section 2.90.030, last amended by
3 Amended Ordinance No. 96-006 on March 13, 1996, is amended to read:

4
5 **2.90.030 Duties of executive.**

6
7 The executive shall be responsible for the following:

8
9 ~~((1))~~ Designate a chair of the risk management committee;))

10
11 ~~((2))~~(1) Coordinate the risk management program and services for the county;

12
13 ~~((3))~~(2) Establish insurance and indemnification requirements for county
14 contracts and leases;

15
16 ~~((4))~~(3) Purchase of appropriate insurance as available on reasonable terms to
17 reduce the county's risk of loss;

18
19 ~~((5))~~(4) Management of the county's insurance programs;

20
21 ~~((6))~~(5) Advise county departments, divisions, and other agencies regarding
22 programs and precautions for safety as established by the executive to reduce
23 hazards to the employee and public that may exist in county facilities and operations;

24
25 (6) Investigate, as the risk manager deems appropriate, any incidents, or
26 conditions for the purpose of claims handling and disposition and/or preventing future
27 incidents;

28
29 ~~((7))~~(7) Make tenders of potentially insured claims to insurance carriers or third
30 party administrators in coordination with the prosecuting attorney;

31
32 ~~((8))~~(8) Maintain loss histories for all lines of coverage;

33
34 ~~((9))~~(9) Select as a result of a competitive procurement process and oversee
35 broker and third party claims administrators;

36
37 ~~((10))~~(10) Recommend coverage changes and modifications to policies to the
38 risk management committee;

39
40 ~~((11))~~(11) Prepare and disseminate such guidelines as are necessary to inform
41 county employees of their responsibilities in relation to accident reporting and risk
42 management policy.
43

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1 Section 4. Snohomish County Code Section 2.90.045, last amended by
2 Amended Ordinance No. 96-006 on March 13, 1996, is amended to read:

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4 **2.90.045 Duties of prosecuting attorney.**

5
6 The prosecuting attorney shall:

7
8 (1) Defend all lawsuits against the county and officers, employees, and
9 volunteers as authorized pursuant to this chapter, except where other counsel is
10 provided by insurance coverage or appointed pursuant to RCW 36.32.200. The
11 prosecuting attorney may appear as co-counsel with insurance provided or county
12 retained counsel, where appropriate;

13
14 (2) Provide legal advice to other county officers regarding the disposition of
15 claims against the county in accordance with the criteria set forth in SCC 2.90.060
16 herein.

17
18 In addition, the prosecuting attorney shall have the authority to:

19
20 (3) Make tenders of potentially insured claims to insurance carriers in
21 coordination with the executive;

22
23 (4) Investigate, as the prosecutor deems appropriate, any incidents, or conditions
24 prior to a claim being filed, for the purpose of possible litigation and/or preventing
25 future incidents;

26
27 (5) Prosecute, at the prosecutor's sole discretion, claims for contribution, counter-
28 claims, cross-claims and other claims arising from damage to county property or other
29 losses suffered by the county due to negligence of some other party;

30
31 (6) Recommend means of reducing potential liability to appropriate county
32 officers.

33
34 (7) Advise the risk manager of the status and progress of all claims and claims
35 litigation.

36
37 Section 5. Snohomish County Code Section 2.90.050, last amended by
38 Ordinance No. 07-045 on June 6, 2007, is amended to read:

39
40 **2.90.050 Incident and claims handling procedures.**

41
42 (1) Service and Filing. In accordance with RCW 4.96.020(2), claims against the
43 county shall be filed with the risk management division of the department of finance
44 and, in accordance with RCW 4.28.080(1), summons and complaints shall be served

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1 upon the auditor. No officer, employee or volunteer of the county may waive the
2 service and/or filing requirements.

3
4 (2) Transmittal. The risk manager shall transmit copies of all claims and the
5 auditor shall transmit copies of all lawsuits to the prosecuting attorney, (~~and~~
6 ~~department involved in the claims or lawsuit~~) within (~~two (2)~~) three (3) business days
7 of receipt.

8
9 (3) The risk manager shall submit a claim report to the council each quarter, or
10 more often as requested by the council. The report shall identify the categories of
11 claims; the percentage of open claims for each category and the related demand
12 amount; the percentage of closed claims and the total of related indemnity and expense
13 payments made to date for each category. The report may include any other information
14 the risk manager believes would be helpful to the council in understanding the nature
15 of claims.

16 The risk manager on or before March 31 of each year shall report to the council on
17 the performance of the risk management program, including, but not limited to, the
18 number of claim filings, amount of claim payments, insurance coverage and self-insured
19 retention.

20
21 (4) Notification. The risk manager and the auditor shall notify the department
22 involved in any claims or lawsuits within three (3) business days of receipt.

23
24
25 Section 6. Snohomish County Code Section 2.90.060, last amended by
26 Ordinance No. 07-045 on June 6, 2007, is amended to read:

27
28 **2.90.060 Claims and lawsuit disposal procedure.**

29
30 (1) The risk manager shall have the authority to settle any claim or lawsuit in
31 which the amount of the settlement does not exceed (~~(15,000))~~ \$35,000. If the risk
32 manager is unavailable, the director of the department of finance may approve such
33 settlements.

34
35 (2) The executive shall have the authority to settle claims and lawsuits in which
36 the amount of the settlement is between (~~(\$15,000))~~ \$35,000 to \$100,000 for any
37 incident with the recommendation of the prosecuting attorney; PROVIDED, That if the
38 aggregate amount of all claims or lawsuits settled as a result of a single incident
39 exceeds \$100,000, then approval by the county council shall be required for the
40 settlement of those claims or lawsuits which would exceed the \$100,000 limit per
41 incident.

42
43 (3) The county council shall approve all settlements of claims and lawsuits for
44 amounts in excess of \$100,000. The prosecuting attorney shall make

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1 recommendations to the executive and the council for proposed settlements of
2 lawsuits or claims for amounts in excess of \$100,000.

3
4 Section 7. Snohomish County Code Section 2.90.070, last amended by
5 Amended Ordinance No. 88-012 on March 10, 1988, is amended to read:

6
7 **2.90.070 Small claims and collections.**

8
9 (1) ~~((County officials, department heads, or their designees,))~~ The risk manager
10 shall have the authority, after notifying the prosecuting attorney, to pursue, collect,
11 and/or defend monetary claims within the jurisdiction of small claims court or brought
12 in small claims court pursuant to chapter 12.40 RCW.

13
14 (2) ~~((County officials, department heads, or their designees,))~~ The risk manager shall be
15 responsible for defending the county in small claims actions alleging tortious conduct on
16 behalf of the county, agent of the county or employee of the county acting within the
17 scope of employment. Notice of claim shall be provided to the prosecuting attorney
18 pursuant to subsection (5) below. (3) The prosecuting attorney may, at his/her sole
19 discretion, pursue, collect, or defend the monetary claims in small claims court. (4)
20 ~~((County officials, department heads, or their designees, are))~~ The risk manager is
21 authorized, upon being awarded a judgment in favor of the county in small claims court,
22 to employ a collection agency for services to collect and/or execute on said judgment.

23
24 (5) ~~((Each county official, department head,))~~ The risk manager shall be
25 responsible for maintaining records of each and every claim pursued, collected or
26 defended. These records shall include detailed information as to the nature and
27 amount of the claim, the ~~((official or))~~ department ~~((head))~~ or division involved,
28 ~~((responsible for its collection or defense,))~~ the individual who appeared in court on
29 behalf of the county, and the disposition of the action. A copy of those records shall be
30 ~~((sent to the prosecuting attorney))~~ maintained by the risk manager.

31
32 Section 8. Snohomish County Code Section 2.90.080, last amended by
33 Amended Ordinance No. 96-006 on March 13, 1996, is amended to read:

34
35 **2.90.080 Duties of county officers and employees.**

36
37 (1) Cooperation. All county officers and employees shall have a duty to report to
38 and cooperate fully with the risk manager, prosecuting attorney and other county
39 officers and the third party administrator concerning accidents or investigation of any
40 incident or condition. All officers and department heads have a duty to provide
41 requested information and otherwise assist the risk manager and prosecuting attorney
42 in the defense of claims and lawsuits. Such assistance may include but is not limited
43 to the providing of testimony and exhibits for use in litigation.

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1 (2) Forbidden Acts. Except when authorized under the provisions of this chapter,
2 no employee, officer or volunteer, acting individually or collectively, may:

3
4 (a) Negotiate or otherwise effect the settlement of a claim or lawsuit against the
5 county;

6
7 (b) Make an admission of liability involving an incident, claim or lawsuit against
8 the county, its elected and appointed officers, employees and volunteers.

9
10 (3) Employee Responsibility Concerning Accident Occurrence. Every officer or
11 employee shall have a duty, in the event of an accident or incident, which is likely to
12 result in a claim or lawsuit being brought against such officer or employee, or the
13 county, to notify his or her supervisor and, as soon thereafter as possible, provide
14 notice of such accident or incident pursuant to county risk management procedures to
15 the risk manager.

16
17 Section 9. Snohomish County Code Section 2.90.085, last amended by
18 Amended Ordinance No. 96-006 on March 13, 1996, is amended to read:

19
20 **2.90.085 Defense of county employees, officers and volunteers.**

21
22 (1) Whenever any action or proceeding is brought against any county employee,
23 officer, or volunteer, who is not an independent contractor, or against such person and
24 the spouse and/or marital community of any such person, arising from acts or
25 omissions of that person while performing or in good faith purporting to perform his or
26 her official duties, the county shall, upon request, authorize defense of the action or
27 proceeding at county expense in accordance with this section. Snohomish County
28 shall defend, indemnify, and hold harmless said protected personnel, subject to
29 conditions and limitations of this chapter and RCW 36.16.134, from all costs,
30 judgments or other civil liabilities, except punitive damages. This duty shall not apply
31 to criminal, infraction or other non-civil proceedings or liabilities (~~or where a lawsuit~~
32 ~~arises out of use of his or her personal vehicle by a county officer, employee or~~
33 ~~volunteer)).~~

34
35 (2) Whenever any person designated in subsection (1) of this section is named
36 as a defendant in an action or proceeding arising out of acts or omissions while
37 performing or in good faith purporting to perform his or her official duties, he or she
38 shall immediately notify the prosecuting attorney and forward a copy of any pleading
39 served on him or her to the prosecuting attorney. In addition, an application for
40 representation must be submitted to the prosecuting attorney in writing no later than
41 10 days after the applicant's receipt of service of process. Such application must
42 include copies of any pleadings served and such additional information as may be
43 requested. If submission is not made within the 10-day period, the county may refuse
44 to protect, defend and hold the applicant harmless in the legal action in question.

1
2 (3) Upon receipt of an application for representation, the prosecuting attorney is
3 hereby authorized to appear in such action in order to maintain the status quo in the
4 proceedings pending the county's decision under this chapter whether legal counsel
5 will be provided.

6
7 (4) The prosecuting attorney or his or her designee shall review the application
8 for representation and if the prosecuting attorney or his or her designee determines
9 that the individual requesting representation is a county officer, employee or volunteer
10 and that the action arises out of acts or omissions performed or in good faith purported
11 to have been performed in the course of his or her official duties, the prosecuting
12 attorney shall authorize representation at county expense.

13
14 (5) If the prosecuting attorney or his or her designee determines that the
15 individual requesting representation is not entitled to representation, the individual
16 may appeal this decision to the county council. This appeal must be filed with the clerk
17 of the county council no later than 10 business days after the date of receipt of the
18 prosecutor's decision to deny representation. The council shall determine whether the
19 acts or omissions of the officer, employee, or volunteer are, or in good faith purported
20 to be, within the scope of his or her official duties so that the individual is entitled to
21 representation. If the council reverses the denial, the county shall provide legal
22 counsel for representation in and defense of civil suits and shall hold these individuals
23 harmless for any expenses connected with the defense, settlement, or monetary
24 judgment arising from same, except as provided for in SCC 2.90.086. All decisions of
25 the council shall be final.

26
27 (6) Where a possible conflict exists between the county and a county officer or
28 employee or other individual otherwise entitled to representation under this chapter,
29 the prosecuting attorney may decline to represent that person. In such cases, the
30 county shall be responsible for payment of reasonable attorneys' fees and costs
31 incurred in defense of the county officer or employee as authorized by the prosecuting
32 attorney. The prosecuting attorney shall have the sole authority to select counsel to
33 represent the individual for whom the county is providing a defense, consistent with
34 the rules of professional conduct. The prosecuting attorney shall make appropriate
35 arrangements for the representation of the county officer or employee.

36
37 (7) Defendant Liability Insurance. In the event county officer, volunteer, or
38 employee is protected by a policy of liability insurance, the policy shall be relied upon
39 the officer or employee to the extent that such policy provides defense or insures the
40 officer or employee. If the officer or employee will suffer losses and/or expenses not
41 covered by the policy, the county shall provide protection for such excess loss and/or
42 expenses.

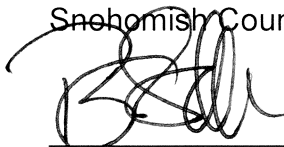
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1 (8) Limitations. If any such officer, volunteer, or employees fail or refuse to
2 cooperate as specified in SCC 2.90.080 and 2.90.085, or elects to provide his or her
3 legal representation with respect to claims and/or litigation arising out of acts or duties
4 in the scope of his or her employment by the county, the provisions of this chapter will
5 be inapplicable and of no force and effect with respect to any such claim and/or
6 litigation; PROVIDED, That the obligations assumed under this section by the county
7 shall not apply to any negligent act, error or omission not within the scope and course
8 of the official duties of the county officer, volunteer or employee, nor to any dishonest,
9 fraudulent, criminal or malicious act nor extend to any lawsuit brought by the county or
10 in its behalf. The provisions of this section shall not modify existing procedures or
11 requirements of law for processing and payment of claims against the county, or of
12 judgments in those cases in which the county is a party defendant; PROVIDED, That
13 such claims, lawsuits and judgments shall be handled in all respects in the same
14 manner as those in which a claim is filed or a lawsuit brought against the county,
15 notwithstanding any other provisions contained in this section. Such provisions shall
16 have no force and effect with respect to any accident, occurrence or circumstance to
17 the extent to which the county, the officer, volunteer, or employee is insured against
18 loss or damages under the terms of any valid insurance policy.

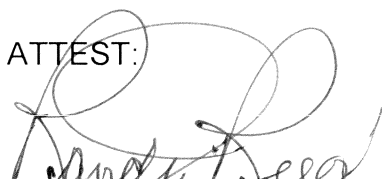
19
20 PASSED this 7th day of June, 2017

21
22 SNOHOMISH COUNTY COUNCIL
23 Snohomish County, Washington

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27 _____
28 Chairperson

29 ATTEST:

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31 

32 _____
33 Clerk of the Council

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Effective:

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APPROVED

EMERGENCY

VETOED

DATE: _____

6/9/17

County Executive

ATTEST:

Cora E. Palmer

Approved as to form only:

Deputy Prosecuting Attorney

D-5