

MASON COUNTY  
ORDINANCE NUMBER 127-03

BEFORE THE BOARD OF COUNTY COMMISISONERS, MASON COUNTY, WASHINGTON:

RE: DEFENSE OF ACTIONS AGAINST MASON COUNTY OFFICERS AND EMPLOYEES.

WHEREAS, a need exists to enact a County Ordinance providing indemnification and legal representation to county officers and employees.

NOW, THEREFORE, IT IS HEREBY ORDAINED as follows:

**PURPOSE.** The purpose of this Ordinance is to provide for the legal and financial protection of the County's officers, employees, and their marital communities from personal liability for acts or omissions by such officers and employees, while acting in good faith and within the scope of their official County duties in compliance with RCW 4.96.041.

**DEFINITIONS.** The following terms, as used in this ordinance, shall mean: Mason County "officer" or "employee" as used in this ordinance shall include all past and present employees, elected and appointed officials and volunteers, whether or not compensated, while acting in their official capacity or for Mason County or on its behalf, including but not limited to: all commissions, agencies, districts, authorities, boards (including the governing board) or similar entities which operate under Mason County's supervision or control.

**REQUEST FOR DEFENSE.** Whenever an action for damages is brought against a County officer or employee, said officer or employee may make a written request to the prosecuting attorney's office for defense by the County on such form as is attached as Exhibit A and which may be obtained from County department heads or officials.

**DETERMINATION TO DEFEND.** The County will provide for the defense of the county officer or employee if the action arose from their acts or omissions while acting in good faith and within the scope of their official County duties. This determination shall be made by the Washington Counties Risk Pool in writing and sent to the County officer or employee. If the request is denied, the officer or employee shall have five days from the date of the Washington Counties Risk Pool's determination to file a written appeal with the Board of County Commissioners.

**EXPENSES COVERED.** Upon the granting of the request, the County will defend the action and pay any judgment for non-punitive damages against the officer or employee. The County will not pay the costs of an attorney retained by the County officer or employee unless first specifically approved by the Board of County Commissioners and prosecuting attorney. Judgments for punitive damages may only be paid by the County only if specifically authorized by the Board of Commissioners.

**WITHDRAWAL OF DEFENSE.** If at any time during defense of an action authorized under this ordinance, the County officer or employee fails to cooperate with the prosecuting attorney's office or other attorney retained by the County, or new evidence indicates that the County officer or employee was not acting either in good faith or within the scope of that person's official county duties, the prosecuting attorney's office may withdraw the county's defense in writing. The County officer or employee may appeal this decision in writing to the Board of County Commissioners within five days from the date of the withdrawal by the prosecuting attorney's office.

**DUTIES OF COUNTY OFFICER OR EMPLOYEE.** Except as specifically directed by the prosecuting attorney's office or other attorney representing the county, no county agency and no

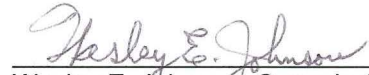
county officer or employee may engage in any of the following acts with respect to actions or proceedings for damages defended pursuant to this ordinance.

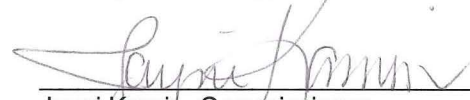
1. Negotiate or otherwise affect the settlement of such action or proceedings for damages against the County;
2. Make an admission of liability involving such an action or proceeding with persons against the County;
3. Discuss with persons, who are not County employees, incidents which could reasonably lead to actions or proceedings for damages against the county or its officers and employees.

PASSED this 9<sup>th</sup> day of December, 2003

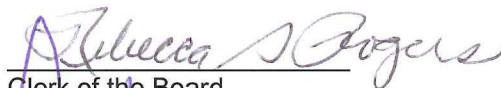
BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON

  
\_\_\_\_\_  
Herb Baze, Chairperson

  
\_\_\_\_\_  
Wesley E. Johnson, Commissioner

  
\_\_\_\_\_  
Jayni Kamin, Commissioner

ATTEST:

  
\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mike E. Clift  
CHIEF DEPUTY PROSECUTOR

EXHIBIT A

REQUEST FOR DEFENSE OF OFFICERS AND EMPLOYEES OF MASON COUNTY

NAME OF CASE: \_\_\_\_\_

COURT: \_\_\_\_\_ CAUSE NUMBER: \_\_\_\_\_

EMPLOYEE/OFFICER REQUESTING DEFENSE: \_\_\_\_\_

SPOUSE (IF NAMED DEFENDANT): \_\_\_\_\_

COMPLAINT – ATTACH COPIES OF ALL DOCUMENTS RECEIVED.

DATE COMPLAINT WAS RECEIVED: \_\_\_\_\_

FROM WHOM RECEIVED: \_\_\_\_\_

REQUEST FOR DEFENSE:

PURSUANT TO MASON COUNTY ORDINANCE NUMBER \_\_\_\_\_ ON BEHALF OF MYSELF (AND MY SPOUSE IF LISTED ABOVE), I AM REQUESTING THAT MASON COUNTY PROVIDE FOR MY DEFENSE AT COUNTY EXPENSE.

I UNDERSTAND AND AGREE THAT IF AT ANY TIME I FAIL TO COOPERATE WITH THE PROSECUTING ATTORNEY'S OFFICE OR OTHER ATTORNEY RETAINED BY THE COUNTY OR, IF EVIDENCE INDICATES THAT I WAS NOT ACTING EITHER IN GOOD FAITH OR WITHIN THE SCOPE OF MY OFFICIAL COUNTY DUTIES, THE COUNTY MAY WITHDRAW ITS DEFENSE IN WRITING. I FURTHER UNDERSTAND AND AGREE THAT I MAY NOT ENGAGE IN ANY OF THE FOLLOWING ACTS REGARDING THIS CASE UNLESS SPECIFICALLY AUTHORIZED BY THE PROSECUTING ATTORNEY'S OFFICE OR OTHER AGENCY REPRESENTING ME ON BEHALF OF THE COUNTY:

- (1) NEGOTIATE OR OTHERWISE AFFECT THE SETTLEMENT OF THE CASE;
- (2) MAKE AN ADMISSION OF LIABILITY;
- (3) DISCUSS THE CASE WITH PERSONS WHO ARE NOT COUNTY EMPLOYEES.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE/OFFICER REQUESTING DEFENSE

WASHINGTON COUNTIES RISK POOL DETERMINATION:

\_\_\_\_ APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

\_\_\_\_ DENIED: \_\_\_\_\_ DATE: \_\_\_\_\_

CONDITIONS AND COMMENTS: \_\_\_\_\_

THIS DECISION MAY BE APPEALED IN WRITING TO THE BOARD OF COUNTY COMMISSIONERS WITHIN FIVE DAYS FROM THE DATE OF THE PROSECUTING ATTORNEY'S DETERMINATION.

Complete this form and submit it to: Mason County Prosecuting Attorney's Office  
Civil Division  
P.O. Box 639  
Shelton, WA 98584