

28, 29, 30, 31

ORDINANCE No. 112997

Law Department

2/3

COUNCIL BILL No. 105647

The City of

AN ORDINANCE adding new sections to Seattle Municipal Code Chapter 4.64 (Ordinance 104526) to provide for the defense of volunteers in service to the City from claims and lawsuits arising in the scope and course of their assignments.

uf

Finance Dept 8/6/86

Honorable President:

Your Committee on _____

to which was referred the within Council report that we have considered the same

COMPTROLLER FILE No. _____

Introduced: JUL 21 1986	By: EXECUTIVE REQUEST
Referred: JUL 21 1986	To: Finance
Referred:	To:
Referred:	To:
Reported: AUG 11 1986	Second Reading: AUG 11 1986
Third Reading: AUG 11 1986	Signed: AUG 11 1986
Presented to Mayor: AUG 12 1986	Approved: AUG 19 1986
Returned to City Clerk: AUG 19 1986	Published:
Vetoes by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Vot

Printed on 8/19/86

Attachment

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on _____

was referred the within Council Bill No. _____

we have considered the same and respectfully recommend that the same:

Vote 5-0

Committee Chair

JGB:pdk
3/13/86
ORD2.

30
105647

ORDINANCE 112997

AN ORDINANCE adding new sections to Seattle Municipal Code Chapter 4.64 (Ordinance 104526) to provide for the defense of volunteers in service to the City from claims and lawsuits arising in the scope and course of their assignments.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to Seattle Municipal Code Chapter 4.64 (Ordinance 104526, as amended) a new section, designated Section 4.64.100 as follows:

4.64.100 Defense of Claims Against Volunteers. To encourage the participation of volunteers in carrying out City projects and activities for the public, the City shall appear and defend a claim or action made against a volunteer personally and pay the claim if judgment be rendered against the volunteer or a settlement be made requiring a payment from the volunteer when all these conditions are met:

- A. The department head determines that the claim arises out of the actions or omissions of the volunteer in the scope and course of carrying out an assignment for a City project or activity or out of the actions or omissions of the volunteer in carrying out an assignment under the direction of a City officer for a joint project or activity of the City and another association or corporation;
- B. The volunteer has registered in writing with the responsible City department and has been authorized to perform the assignment or such assignments;

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- C. The volunteer gives the City information about the accident or claim as soon as practical. This includes the time, place and circumstances of the damage or injury, the persons or property involved, the extent of the injuries or damages, the names of witnesses, and other facts requested by the City Attorney; and
- D. The volunteer authorizes the City to defend the claim on his or her behalf and to represent him or her in any litigation that may arise; and the volunteer cooperates fully and assists the City Attorney in its defense. This condition includes forwarding to the City Attorney any and every demand, notice, summons or other process received which may relate to the incident or lawsuit; attending interviews, depositions, hearings and trials; assisting in securing evidence and the attendance of witnesses; filing and enforcing claims against others who may be liable; and obeying instructions of the City Attorney related to the defense of the claim.

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The City's defense of a claim made against a volunteer includes claims made against a volunteer and his or her marital community on account of the volunteer's actions or omissions in the scope and course of carrying out a City assignment and it covers claims or lawsuits made against the City and the volunteer jointly.

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Section 2. There is added to Seattle Municipal Code Chapter 4.64 (Ordinance 104526, as amended) a new section, designated Section 4.64.110 as follows:

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4.64.110 Limitations and Reservations. The City's undertakings and obligations under Section 4.64.100 are subject to these limitations and reservations:

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- A. Section 4.64.100 does not apply to claims arising out of the volunteer's use of a motor vehicle. Eligibility for City defense and payment of claims against a volunteer arising from his or her use of a motor vehicle will be determined under Seattle Municipal Code Section 4.68.030.
 - B. The City's defense of a claim and its obligation to pay a judgment or settlement shall be of no force or effect if the volunteer fails or refuses to cooperate fully and assist in the City's defense of the claim.
 - C. To the extent that the City makes payment on a claim for the benefit of the volunteer, the City will succeed to rights and claims of the volunteer against others, who may be responsible in whole or in part for the damages or injury.
 - D. When the volunteer is a spouse or a member of the immediate family of a department head or the department head is disqualified or declines to make the determination contemplated by 4.64.100(a), the City Attorney will make the determination for the City.
 - E. The City Attorney may retain counsel to represent the volunteer rather than undertake the representation through the Law Department.
 - F. Section 4.64.100 does not apply to prosecutions to enforce criminal or civil penalties for violations of law or City ordinance.

(To be used for all Ordinances except Emergency.)

Section..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 11th day of August, 1986,
and signed by me in open session in authentication of its passage this 11th day of August, 1986.

[Signature]
President..... of the City Council.

Approved by me this 19th day of August, 1986.

[Signature]
Mayor.

Filed by me this 19th day of August, 1986.

Attest: Howard J. Brooks
City Comptroller and City Clerk.

(SEAL)

By Margaret Centa
Deputy Clerk.

Published.....

Seattle
Department of
Parks and Recreation



Charles Royer, Mayor

Walter R. Hundley, Superintendent

June 11, 1986

City Council
City of Seattle

Via: Mayor Charles Royer

Attention: Gary Zarker, Director
Office of Management and Budget

REC'D OMB JUN 19 1986

832649

Honorable Members:

Re: An ordinance adding new sections to Seattle Municipal Code Chapter 4.64 (Ordinance 104526 as amended) to provide for the defense of volunteers in service to the City from claims and lawsuits arising in the scope and course of their assignments.

We request the adoption of this legislation which will provide defense of claims and lawsuits brought against volunteers when they are providing services to the City.

Volunteers are an essential resource to the Department of Parks and Recreation. Without their assistance, services we now provide would have to be eliminated or curtailed.

In recent years, there has been a growing concern among volunteers that they may be personally held liable and/or forced to bear the expense of defense against a claim as a result of the volunteer service they are providing to the City. If we are to continue to attract responsible volunteers to assist the City in carrying out its various missions, it is important they be provided protection from the cost of litigation and possible subsequent claims.

Your consideration of this matter is appreciated.

Sincerely,


Walter R. Hundley
Superintendent

WRH:jsy
Attachments

cc: C. M. Girtch, Director, Operations
Virginia M. Swanson, Director, Recreation Programs

Seattle Department of Parks and Recreation, 210 Municipal Building, Seattle, Washington 98104-9968 (206) 625-4871

Board of Park Commissioners: Harvey S. Poir, Chairman; Bob Ito, Vice Chairman; Glenna Hall, Phyllis Legters, O.L. Mitchell, Karen Morgan, Jane B. Sylvester

An equal employment opportunity - affirmative action employer.

Legislative Request Supporting Information

In conformance with City of Seattle Operating Procedures 100-014 and 200-001, the following information is submitted:

Title of Program or Proposal

An ordinance adding new sections to Seattle Municipal Code Chapter 4.64 (Ordinance 104525) to provide for the defense of volunteers in service to the City from claims and lawsuits arising in the scope and course of their assignments.

Statement of Objective

This is a request for an ordinance authorizing the City to defend individuals who are sued as a result of their volunteer activities for the City of Seattle.

Historical Overview

The City benefits from the labor of thousands of people who volunteer time each year to help conduct a wide variety of City programs. For example, in the Department of Parks and Recreation, volunteers serve at the Aquarium, Zoo, community centers, pools, Discovery Park, and at many other facilities. Given the high cost of personal liability insurance coverage and considering the essential services volunteers provide, the City should protect these individuals from claims or lawsuits when the claim or lawsuit is a direct result of their volunteer efforts on behalf of the City.

Without this protection, the City is in danger of losing the vital services of many volunteers who are concerned about protection both from legal judgments and from the cost of providing legal defense if sued.

Fiscal Requirements

There are no additional immediate fiscal payments required if this ordinance is approved. However, the City will be committed to providing defense for an individual if a claim or lawsuit is filed against the individual as a result of his/her volunteer work for the City. The City also will agree to pay the claim if a judgment is rendered against the individual.

Personnel Requirements

No additional staff will be required as a result of this request.

Alternatives:

Curtail services now provided by volunteers or hire additional City staff to perform the work done by volunteers.

Contact Person:

Jeffrey B. Sandoz, Administrative Assistant, Recreation Division - 625/4003

JS:dy

City of Seattle

ORDINANCE 111997

AN ORDINANCE adding new sections to Seattle Municipal Code Chapter 4.64 (Ordinance 104526) to provide for the defense of volunteers in service to the City from claims and lawsuits arising in the scope and course of their assignments.

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- A. The department head determines that the claim arises out of the actions or omissions of the volunteer in the scope and course of carrying out an assignment for a City project or activity or out of the actions or omissions of the volunteer in carrying out an assignment under the direction of a City officer for a joint project or activity of the City and another association or corporation;
- B. The volunteer has registered in writing with the responsible City department and has been authorized to perform the assignment or such assignments;
- C. The volunteer gives the City information about the accident or claim as soon as practical. This includes the time, place and circumstances of the damage or injury, the persons or property involved, the extent of the injuries or damages, the names of witnesses, and other facts requested by the City Attorney; and
- D. The volunteer authorizes the City to defend the claim on his or her behalf and to represent him or her in any litigation that may arise; and the volunteer cooperates fully and assists the City Attorney in its defense. This condition includes forwarding to the City Attorney any and every demand, notice, summons or other process received which may relate to the incident or lawsuit; attending interviews, depositions, hearings and trials; assisting in securing evidence and the attendance of witnesses; filing and enforcing claims against others who may be liable; and obeying instructions of the City Attorney related to the defense of the claim.

The City's defense of a claim made against a volunteer includes claims made against a volunteer and his or her marital community on account of the volunteer's actions or omissions in the scope and course of carrying out a City assignment and it covers claims or lawsuits made against the City and the volunteer jointly.

Section 2. There is added to Seattle Municipal Code Chapter 4.64 (Ordinance 104526, as amended) a new section, designated Section 4.64.110 as follows:

4.64.110 Limitations and Reservations. The City's undertakings and obligations under Section 4.64.100 are subject to these limitations and reservations:

- A. Section 4.64.100 does not apply to claims arising out of the volunteer's use of a motor vehicle. Eligibility for City defense and payment of claims against a volunteer arising from his or her use of a motor vehicle will be determined under Seattle Municipal Code Section 4.68.030.
- B. The City's defense of a claim and its obligation to pay a judgment or settlement shall be of no force or effect if the volunteer fails or refuses to cooperate fully and assist in the City's defense of the claim.
- C. To the extent that the City makes payment on a claim for the benefit of the volunteer, the City will succeed to rights and claims of the volunteer against others, who may be responsible in whole or in part for the damages or injury.
- D. When the volunteer is a spouse or a member of the immediate family of a department head or the department head is disqualified or declines to make the determination contemplated by 4.64.100(a), the City Attorney will make the determination for the City.
- E. The City Attorney may retain counsel to represent the volunteer rather than undertake the representation through the Law Department.
- F. Section 4.64.100 does not apply to prosecutions to enforce criminal or civil penalties for violations of law or City ordinance.

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 11th day of August, 1986, and signed by me in open session in authentication of its passage this 11th day of August, 1986.

SAM SMITH,
President of the City Council

Approved by me this 19th day of August, 1986.

CHARLES ROYER,
Mayor

Filed by me this 19th day of August, 1986.

Attest: NORWARD J. BROOKS,
City Comptroller and City Clerk

(Seal) By MARGARET CARTER,
Deputy Clerk

Publication ordered by NORWARD J. BROOKS, Comptroller and City Clerk.

Date of office publication in Daily Journal of Commerce, Seattle, August 22, 1986.

(C-412-X)

