AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, PROVIDING FOR LEGAL DEFENSE FOR CITY EMPLOYEES, ELECTED OFFICIALS, AND VOLUNTEERS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Sammamish will incorporate on August 31, 1999; and

WHEREAS, the City desires to provide for legal defense for City employees, elected officials, and volunteers;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Indemnification of Employees, Officials, and Volunteers. The City shall indemnify, hold harmless, and defend a City employee, elected official or volunteer for any liability that may arise from acts or omissions committed by the employee, volunteer or elected official where said acts or omissions were made in good faith during the course of and within the scope of city employment or volunteer activity for the City, or while performing duties as an elected official.

Section 2. Defense Provision - Failure to Cooperate. If the City determines that it will provide a defense for the affected City employee/elected official/volunteer, then the affected employee/elected official/volunteer will fully cooperate with the City in preparing a defense and trying the case should it go to trial. If the City employee/elected official/volunteer fails to cooperate, then the City may refuse to provide further defense and indemnity.

Section 3. No Duty to Indemnify - Conditions. The City shall have no duty to indemnify, hold harmless or defend a city employee/elected official/volunteer affected with regards to the following:

A. Nonmonetary orders that are entered against the employee/elected official/volunteer;

B. Consequences of the lawsuit that occur prior to the time the employee/elected official/volunteer notifies the city attorney about the claim;

C. Any criminal complaint;

D. Any intentional tort or for any conduct that is willful or wanton; provided, however, if the City employee/elected official/volunteer denies that he/she has committed intentional or
willful or wanton conduct, then the City shall provide the defense but shall have no duty to
indemnify the employee/elected official/volunteer if any judgment is entered against him/her for
intentional or willful and wanton wrongful conduct; provided further, if the trier of fact finds that
the employee/elected official/volunteer has committed a willful, wanton or intentional wrongful
act, then he/she shall be required to reimburse the City for defense costs, including attorney fees,
incurred in defending the employee/elected official/volunteer in said lawsuit. The City shall
require the employee to sign an agreement indicating he/she will reimburse the City for defense
costs, including attorney fees, should the trier of fact determine the employee committed a
willful, wanton or intentional wrongful act. This document shall be signed before the City is
obligated to provide a defense; and

E. Provided, however, the city attorney shall defend an elective city official in a judicial
hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 if the
official requests such defense. Said defense by the city attorney shall include the cost of
appealing the decision rendered by the Superior Court concerning the sufficiency of the recall
charge if the city attorney determines there is legal merit for an appeal and the official requests
such an appeal.

Section 4. Duty to Indemnify - Common Law. The City’s duty to indemnify, hold
harmless and defend is recognized as a common-law duty.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this
Ordinance, or its application to any person or circumstance, be declared unconstitutional or
otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or
federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining
portions of this Ordinance or its application to other persons or circumstances.

Section 6. Effective Date. A summary of this Ordinance consisting of its title shall be
published in the official newspaper of the City. This Ordinance shall take effect and be in full
force on August 31, 1999.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON

CITY OF SAMMAMISH

Mayor Phil Dyer
ATTEST/AUTHENTICATED:

Ruth Muller, Interim City Clerk

Approved as to form:

Bruce L. Disend, City Attorney

Filed with the City Clerk: July 22, 1999
Passed by the City Council: July 28, 1999
Ordinance No. 99-19
Date of Publication: August 4, 1999