

ORIGINAL

ORDINANCE 2011 - 09

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF SUNNYSIDE, WASHINGTON, ESTABLISHING
CHAPTER 2.42 OF THE SUNNYSIDE MUNICIPAL CODE ADOPTING
STANDARDS FOR THE DELIVERY OF PUBLIC DEFENSE**

WHEREAS, pursuant to Chapter 35A.13 of the Revised Code of Washington, the City Council is charged with the legislative authority of the City of Sunnyside;

WHEREAS, pursuant to Chapter 10.101.030 of the Revised Code of Washington, the City is required to adopt standards for the delivery of public defense services;

WHEREAS, the City of Sunnyside desires to adopt standards in accordance to Chapter 10.101.030 of the Revised Code of Washington; and

WHEREAS, the City Council has determined that adopting standards for the delivery of public defense is in the best interest of the residents of the City of Sunnyside and will promote the general health, safety and welfare;

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

Section 1. Sunnyside Municipal Code Section 2.42 is hereby established to read as follows:

2.42.010 Authority.

The standards contained in this chapter are adopted pursuant to RCW Chapter 10.101, Indigent Defense Services, for the purpose of providing fair, effective, reasonable, and professional indigent defense services as required by law. These standards are based in substantial part on the indigent standards approved by the Washington State Bar Association and Washington State Defender Association.

2.42.020 Compensation of counsel.

Compensation of counsel shall be established through negotiation of an individual contract for public defense services. The City shall consider training, experience, the nature and extent of services requested, and the time and labor required of the attorneys undertaking defender services. Services that require extraordinary fees should be defined in the individual contract. When a conflict exists separate counsel shall be provided to the defendant by the City.

2.42.030 Duties and responsibilities of counsel.

Counsel shall follow the duties and responsibilities set forth in the individual contract. Counsel shall maintain malpractice insurance with agreed-upon policy limits. The individual contract shall require that public defense services be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the Washington State Bar Association, case law and applicable court rules defining the duties of counsel, and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to promote and protect the best interest of the client.

2.42.040 Case load limits and types of cases.

The City shall endeavor to include in individual contracts the types of cases for which representation is to be provided and the maximum number of cases which each attorney shall be expected to handle. Case loads shall allow counsel to give each client the time and effort necessary to provide effective representation. Case load limits should be determined by the number and type of cases being accepted and by the City Prosecutor's charging and plea bargaining practices.

2.42.050 Responsibility for expert witness fees and associated services.

Expert witness fees and additional associated services, including investigative services, support services, or other services necessary in a case will be paid as provided in the individual contract. Investigators, when used, should have criminal investigation training and experience.

2.42.060 Administrative expenses.

Administrative costs of providing representation shall be counsel's responsibility. Such costs shall include, but not be limited to, travel, telephones, law library, electronic research, financial accounting, case management systems, computers and software, office space and supplies, training, meeting the reporting requirements imposed by these standards, and other costs necessarily incurred in the day-to-day management of the individual contract.

2.42.070 Support services.

Counsel shall staff his/her office with an appropriate number of support staff and other support services. Counsel shall also acquire or maintain appropriate computer/word processing equipment in order to handle the paperwork generated by the contract case load as well as to comply with the reporting procedures required in SMC 2.42.080.

2.42.080 Reporting procedures.

Counsel shall maintain a case reporting and management information system, which includes the number, type, attorney hours, and disposition of indigent defense cases. All of the above-described information shall be provided to the City on a regular basis or such other schedule agreed to by the City. Counsel's case reporting and management information system shall be maintained independently from client files in order to not disclose any privileged information. All records pertaining to expenses and billing shall conform to generally accepted accounting principles.

2.42.090 Training, supervision, monitoring, and evaluation of counsel.

The training, supervision, and monitoring of counsel and their staff shall be the sole responsibility of counsel, except as provided in the individual contract. The City shall strive to evaluate counsel on a consistent basis. All training, supervision, monitoring, and evaluation of counsel shall conform to the standards set by the Washington State Bar Association and the Washington State Defender Association.

2.42.100 Substitution of counsel and assignment of contracts.

The counsel engaged by local government to provide public defense services should not sub-contract with another firm or attorney to provide representation and should remain directly involved in the provision of representation. If the contract is with a firm or office, the City should request the names and experience levels of those attorneys who will actually be providing the services, to ensure they meet the minimum qualifications. The employment agreement should address the procedures for continuing representation of clients upon the conclusion of the agreement. Alternative or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

2.42.110 Limitations on private practice.

Contracts for indigent defense services with private attorneys or firms may set limits on the number of private or special appointment cases which can be accepted by the contracting attorney or provide that the indigent defense contract be a priority over private or special appointment caseloads. An attorney or firm rendering indigent defense services shall not allow his or her private practice or special appointments to diminish his or her ability to represent indigent clients he or she is obligated to serve by the individual contract.

2.42.120 Qualifications of counsel.

Counsel shall be licensed to practice law in the State of Washington, be members in good standing of the Washington State Bar Association, comply with all applicable rules relating to the practice of law that have been or may be promulgated by the Washington State Supreme Court, and be capable of performing all necessary duties stated in the individual contract. Counsel shall have legal experience devoted to practice in the area of criminal law during which time counsel shall have demonstrated his/her competence in the area of criminal law.

2.42.130 Disposition of client complaints.

A method to respond promptly to indigent defendant client complaints shall be established by counsel. If the attorney and client cannot resolve the complaint amicably, the attorney shall ask the court for permission to withdraw and substitute new counsel. The complaining client should be informed as to the disposition of his or her complaint within a reasonable period of time. If the client feels dissatisfied with the evaluation and response received, he or she should be advised of the right to complain to the Washington State Bar Association.

2.42.140 Termination of contract or removal of counsel.

The termination of an individual contract for public defense services will be determined by the provisions set forth in the individual contract. Removal by the court of counsel from representation normally should not occur over the objection of both counsel and the client.

2.42.150 Non-Discrimination.

Neither the City, in its selection of an attorney, firm, or agency to provide public defense representation, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation, or handicap.

Section 2. This ordinance shall be effective five days after passage, approval and publication as required by law.

PASSED this 25th day of July, 2011.



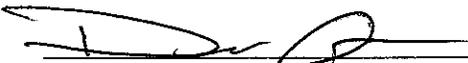
JAMES A. RESTUCCI, MAYOR

ATTEST:



DEBORAH A. ESTRADA, CITY CLERK

APPROVED AS TO FORM:



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