

Substitute changes are highlighted

PROPOSED BY: DONOVAN, SCANLON, GALLOWAY

INTRODUCED: SEPTEMBER 23, 2025

ORDINANCE NO. _____

**AMENDING WHATCOM COUNTY CODE CHAPTER 3.05 TORT AND DAMAGE CLAIMS
TO CREATE A RISK MANAGEMENT COMMITTEE AND CLARIFY THE PROCESSING OF
TORT CLAIMS**

WHEREAS, Whatcom County Code (WCC) [Chapter 3.05](#) Tort and Damage Claims establishes a system for filing and processing third party claims against Whatcom County; and

WHEREAS, Whatcom County Charter [Section 2.20](#) states that enumeration of particular legislative powers shall not be construed as limiting the legislative powers of the County Council; and

WHEREAS, the County Council exercises the legislative power of oversight; and

WHEREAS, WCC 3.05.020 states the County Council delegates the authority to settle all tort claims to the County Prosecuting Attorney, with the approval of the County Executive; and

WHEREAS, Whatcom County Charter [Section 3.55](#) states the County Prosecuting Attorney shall have all the powers, authority and duties conferred by state law; and

WHEREAS, WCC 3.05.020 states all other settlements require Council approval; and

WHEREAS, WCC 3.05.030(A) states that no settlements of any lawsuit to which the County is a party shall be made except with full public disclosure of the total settlement amount either paid by the County directly or paid on the County's behalf; and

WHEREAS, WCC 3.05 lacks clarity in defining how, or if, Council will be informed of settlements made on the County's behalf by third parties, such as the Washington Counties Risk Pool (WCRP); and

WHEREAS, in [Resolution 1988-045](#), the Whatcom County Council approved an interlocal agreement directing the Executive to execute a Risk Pool agreement on behalf of the County with the Washington Association of Counties Risk Pool (WCRP); and

WHEREAS, in Resolution 1988-045, the County Council initially designated the Chair of the Finance Committee to serve as an alternate representative to the Board of Directors of the Washington County Risk Pool, the authority of voting rights being set by the interlocal agreement with the Washington Counties Risk Pool; and

WHEREAS, Resolutions 2009-276, 2011-041, 2012-398, 2015-291, and 2025-021 modified and designated, over time, various other employees or county officers to serve on the WCRP Board as Director or Alternative Director pursuant to the terms of the Risk Pool by laws and interlocal agreement with the county; and

WHEREAS, Resolution 2025-021 designates the Whatcom County Human Resources Director to sit as the Director on the WCRP Board and further designates the Civil Prosecutor and the Human Resources Manager as the alternate directors serving as the county member of the WCRP Board; and

WHEREAS, Resolution 2025-021 does not designate the Chair of the Finance Committee to serve as an alternate director in contrast with the Resolution 1988-045; and

WHEREAS, WCC 3.05 lacks clarity in defining how, if, or when councilmembers may engage with the Risk Pool or with the County's representatives to the Risk Pool; and

WHEREAS, the Whatcom County Executive created the Risk Management Working Group by [Executive Order 2000-02](#) to provide a coordinated internal effort between County departments to review internal issues and promote responsible management of the County's risk exposure; and

WHEREAS, A Council representative is not included in the Risk Management Working Group membership.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code Chapter 3.05 Tort and Damage Claims is hereby amended as set forth in Exhibit A to this ordinance to add a councilmember to the Risk Management Working Group, and to ensure ongoing legislative oversight of county risk management activities.

ADOPTED this ____ day of _____, 2025.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Cathy Halka, Clerk of the Council

Kaylee Galloway, Council Chair

APPROVED AS TO FORM:

Kimberly Thulin (by email 9/15/2025/ko)

Civil Deputy Prosecutor

EXHIBIT A

Chapter 3.05

TORT AND DAMAGE CLAIMS

Sections:

3.05.010 Tort and damage claims.

3.05.020 Settlement authority for tort claims.

3.05.030 Public disclosure of tort claim settlements.

3.05.040 Risk Management Working Group

3.05.010 Tort and damage claims.

A. Filing. All claims for damages against the county must be filed with the clerk of the county council. A summary of each claim identifying the claimant, the date of the claim, the amount claimed, the amount paid, and the date of payment shall be prepared annually by the clerk of the county council, or ~~his or her~~ their designee, and made available for inspection by the members of the county council.

B. Requisites of Claim. All such claims for damages must locate and describe the defect which caused the injury, describe the injury and contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and calling the claim and for a period of six months immediately prior to the time the claim accrued and be sworn to by the claimant; provided, that if the claimant is incapacitated from verifying and filing their ~~his~~-claim for damages within the time prescribed, or if the claimant is a minor, or in case the claim is for damages to real or personal property, and the owner of the property is a nonresident of the county or is absent therefrom during the time within which a claim for damages is required to be filed, the claim may be verified and presented on behalf of the claimant by a relative or attorney or agent representing the injured person, or, in case of damages to property, representing the owner thereof.

C. Time for Commencement of Action. No action shall be commenced against the county for damages arising out of tortious conduct until a claim has first been filed with the clerk of the county council, and an action commenced in the proper court within the period allowed by law for the commencement of a like action against private parties.

D. Claim Forwarded to the County Executive as Well as the Prosecuting Attorney. Every claim after being filed with the clerk of the county council shall be promptly forwarded to the executive's office as well as the prosecuting attorney who shall consider same in light of county tort claims defense qualifications.

E. All Summons and Complaints to the Prosecuting Attorney. Every tort action summons and complaint shall be served on the county auditor who shall promptly present it to the office of the Whatcom County prosecutor. (Ord. 2003-020; Ord. 2002-051; Ord. 93-042 Exh. F).

3.05.020 Settlement authority for tort claims.

A. Authority is delegated by the county council to the county prosecuting attorney for settlement of all tort claims against the county where the amount to be paid in the settlement is \$5,000 or less; authority is delegated to the county prosecuting attorney, with the approval of the county executive, for settlement of all tort claims where the amount to be paid in the settlement is more than \$5,000 but less than \$25,000. All other settlements require council approval.

B. Unless authorized by law to be filed directly by the prosecuting attorney, all other civil lawsuits brought in the name of or on behalf of Whatcom County shall be commenced upon, and only upon, the approval of the county council. (Ord. 93-042 Exh. F).

3.05.030 Public disclosure of tort and claim settlements.

A. All records relating to any settlements of any lawsuit to which the county is a party shall be subject to public record disclosure as required by state law. No settlements of any lawsuit to which the county is a party shall be made except with full public disclosure of the total settlement amount either paid by the county directly or paid on the county's behalf. ~~The county shall not be required to disclose payments made by third parties in settlement of their own claims~~ The county shall be required to disclose to council payments made by third parties in settlement of county claims.

B. The prosecuting attorney's office shall include a copy of this section in early correspondence to litigants. (Ord. 93-042 Exh. F).

3.05.040 Risk Management Working Group

There is hereby established the Risk Management Working Group. This group shall meet a minimum of twice per year.

(A) Whatcom County Risk Management Working Group Executive Committee shall be comprised of the following:

- (i) county executive or designee;
- (ii) director of finance or designee;
- (iii) prosecuting attorney or designee;
- (iv) county risk manager or designee, who shall serve as chair;
- (v) chair of the finance committee of county council or designated councilmember.

(B) Additional members to the Risk Management Working Group may include county employees as follows:

- (i) human resources **director** (if different from county risk manager or designee)
- (ii) facilities **director**;
- (iii) safety and wellness representative;
- (iv) **public works** safety and training coordinator;
- (v) sheriff **or designee**;
- (vi) health and **community** services director;
- (vii) parks and recreation director;
- (viii) **superior court administrator**;
- (ix) administrative services director or designee.
- (x) **alternate risk managers**

(C) A vice chair shall be elected by the Group to serve in the absence of the chair.

(D) The function of the Risk Management Working Group shall be to:

- (i) promote Washington Counties Risk Pool policy directives;
- (ii) review all reports provided by the county executive or county risk manager related to risk management strategies and reporting by all county departments in order to review losses and risk exposures to the County;
- (iii) recommend management policies and practices to the county executive to reduce the frequency and severity of losses and enhance operating efficiency;

(iv) recommend changes to coverage limits for insurance policies that fall outside the scope of WCRP to the county executive;

(v) periodically review county membership in the WCRP and give proper notice if the committee recommends and council approves of an intent to leave the WCRP pursuant to the terms of the current interlocal WCRP agreement;

(vi) review and propose updated reporting procedures to the county executive of employee, officer, or volunteer incidents and accidents, which shall include prompt notification to the Prosecuting Attorney and WCRP of potential liability;

(vii) review ordinances that may need to be amended for the health and safety of employees, volunteers, and elected officials and to further protect the public's interest in the assets of Whatcom County, and make recommendations of proposed amendments to the county council and county executive.