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3
4 **CITY OF LYNNWOOD**

5
6 **ORDINANCE NO. 2668**

7
8 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
9 LYNNWOOD, WASHINGTON, ADOPTING STANDARDS FOR
10 THE DELIVERY OF PUBLIC DEFENSE SERVICES.

11
12 WHEREAS, RCW 10.101.030 requires the City of Lynnwood (“City”) to adopt
13 standards for the delivery of public defense services; and

14
15 WHEREAS, the City desires to adopt public defense service standards which
16 reflect the needs of the City;

17
18 NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD,
19 WASHINGTON, DO ORDAIN AS FOLLOWS:

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21 Section 1. Adoption. To ensure that indigent criminal defendants receive high-
22 quality legal representation through a public defense system that efficiently and
23 effectively protects the constitutional requirement of effective assistance of counsel, the
24 City hereby adopts the following standards for such services.

25
26 Section 2. Duties and Responsibilities of Counsel. The legal representation plan
27 shall be in the form of a contract between the City and the Public Defender. It shall
28 require that defense services be provided to all clients in a professional, skilled manner
29 consistent with minimum standards set forth by the American Bar Association, applicable
30 state bar association standards, the Rules of Professional Conduct, case law and
31 applicable court rules defining the duties of counsel and the rights of defendants in
32 criminal cases. The duties of defense counsel in each case include, but are not necessarily
33 limited to, investigation of the facts, research of relevant law, communication with the
34 client, review possible motions, review plea alternatives, review dispositional
35 alternatives, trial preparation and vigorous representation in court.

36
37 Section 3. Caseload Limits and Types of Cases. The caseload negotiated with the
38 City’s Public Defender must allow each client the time and effort necessary to ensure
39 effective representation. Caseload limits should be determined by the number and type of
40 cases being accepted and on the local prosecutor’s charging and plea bargaining practices.
41 The City shall ensure that the Public Defender shall not be required to accept more cases
42 than can be reasonably managed. In these situations, the caseload ceiling should be based
43 on the percentage of time the lawyer devotes to public defense. The firms providing legal
44 serves on behalf of City of Lynnwood must devote at least 25% of that firm’s time in
45 providing services required to the City of Lynnwood under this contract.
46

1 Section 4. Compensation. The City’s Public Defender compensation shall be
2 established through negotiation of contract for defender services. The compensation
3 package should reflect the customary compensation of the community for similar services
4 rendered by other publicly paid attorneys to a public client. The City shall consider
5 training, experience, and the nature and extent of services requested and the time and
6 labor required of the attorney undertaking defender services. Services which require
7 extraordinary fees should be defined in the contract.

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9 Section 5. Expenses.

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11 A. Expert Witnesses. Reasonable compensation for expert witnesses
12 necessary to preparation and presentation of the defense case shall be provided. Expert
13 witness fees should be maintained and allocated from funds separate from those provided
14 for defender services. Requests for expert witness fees under Court Rule 3.1(f) should be
15 made through an ex parte motion. The defense should be free to retain the expert of its
16 choosing and in no cases should be required to select experts from a list pre-approved by
17 either the court or the prosecution.

18
19 B. Administrative. Contracts for public defense services should include the
20 administrative costs associated with providing legal representation. These costs may
21 include travel, telephones, law library, financial accounting, case management systems,
22 the reporting requirements imposed by these standards and other costs necessarily
23 incurred in the day-to-day management of the contract.

24
25 C. Services. Contracts for public defender services should include the
26 support services associated with legal representation, including, but not limited to,
27 secretarial and office support, paralegals, mental health services, social services, and
28 investigators,

29
30 Section 6. Reports of Attorney Activity and Vouchers. The legal representation
31 plan shall require that the defense attorney or office maintain a case reporting and
32 management information system which includes number and type of cases, attorney
33 hours and disposition. This information shall be provided regularly to the City and shall
34 also be made available to the Office of the Administrator of the Courts. Any such system
35 shall be maintained independently from client files so as to disclose no personal
36 information.

37
38 Section 7. Training. Attorneys providing public defense services should
39 participate in regular training programs on criminal defense law, including a minimum of
40 seven hours of continuing legal education annually in areas relating to their public
41 defense practice. Every attorney providing counsel to indigent accused should have the
42 opportunity to attend courses that foster trial advocacy skills and to review professional
43 publications and tapes.

44
45 Section 8 Monitoring and Evaluation of Attorneys. The plan for public defense
46 services should establish a procedure for systematic monitoring and evaluation of

1 attorney performance based upon published criteria. Supervision and evaluation efforts
2 should include review of time and caseload records, review and inspection of transcripts,
3 in-court observations and periodic conferences.
4

5 Section 9 Substitution of Attorneys or Assignment of Contract. The attorney
6 engaged by the City to provide public defense services should not subcontract with
7 another firm or attorney to provide representation and should remain directly involved in
8 the provision of representation. If the contract is with a firm or office, the City should
9 request the names and experience levels of those attorneys who will actually be providing
10 the services, to ensure they meet minimum qualifications. The employment agreement
11 shall address the procedures for continuing representation of clients upon the conclusion
12 of the agreement.
13

14 Section 10. Qualifications of Attorneys. In order to assure that indigent accused
15 receive the effective assistance of counsel to which they are constitutionally entitled,
16 attorneys providing defense services should meet the following minimum:

17 A. Satisfy the minimum requirements for practicing law in Washington as
18 determined by the Washington Supreme Court; and

19 B. Complete seven hours of continuing legal education within each calendar year in
20 courses relating to their public defense practice.
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22 Section 11. Disposition of Client Complaints. The legal representation plan shall
23 include a method to respond promptly to client complaints. Complaints should first be
24 directed to the attorney, firm or agency which provided representation. If the client feels
25 that he or she has not received an adequate response, the City shall designate a person or
26 agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The
27 complaining client should be informed as to the disposition of his or her complaint within
28 one week.
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30 Section 12. Cause for Termination of Removal of Attorney. Contracts for
31 defense services shall include the grounds for termination of the contract by the parties.
32 Termination of any attorney's contract should only be for cause. Good cause shall
33 include the failure of the attorney to render adequate representation to clients, the willful
34 disregard of the rights and best interests of the client and the willful disregard of the
35 standards herein addressed.
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37 Section 13. Nondiscrimination. Neither the City, in its selection of an attorney,
38 firm or agency to provide public defense representation, nor the attorneys selected, in
39 their hiring practices or in their representation of clients, shall discriminate on the
40 grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation
41 or handicap. Both the City and the contractor shall comply with all federal, state and
42 local nondiscrimination requirements.
43

44 Section 14. Guidelines for Awarding Defense Contracts. The City should award
45 contracts for public defense services only after determining that the attorney or firm
46 chosen can meet accepted professional standards. Under no circumstances should a

1 contract be awarded on the basis of cost alone. Attorneys or firms bidding for contracts
2 must demonstrate their ability to meet these standards.

3
4 Section 15. Severability. If any section, sentence, clause or phrase of this
5 ordinance should be held to be invalid or unconstitutional by a court of competent
6 jurisdiction, such invalidity or unconstitutionality shall not affect the validity or
7 constitutionality of any other section, sentence, clause or phrase of this ordinance.

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9 Section 16. Effective Date. This Ordinance shall take effect five (5) days after
10 passage and publication of an approved summary thereof consisting of the title.

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14 APPROVED by the Lynnwood City Council this 2nd day of February, 2007

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18 _____
19 DON GOUGH, MAYOR

20 ATTEST:

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23 _____
24 PATRICK L. DUGAN
25 Interim Finance Director

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28 _____
29 MICHAEL P. RUARK
30 City Attorney