

DISTRICT OF SALMON ARM

BYLAW NO. 3411

A bylaw to provide indemnification for municipal officials against actions and prosecutions brought against them in connection with the performance of their duties.

WHEREAS the *Local Government Act* provides that the Council may by bylaw provide that the Municipality will indemnify its officials against an award of damages or penalty imposed as a result of a claim or prosecution brought against them in connection with the performance of their duties, and in addition, pay legal costs incurred in a court proceeding arising out of the claim or prosecution;

NOW THEREFORE the Council of the District of Salmon Arm, in open meeting assembled, enacts as follows:

1. In this bylaw,

"Municipality" means the District of Salmon Arm.

"Municipal Official" means

- (a) a current or former council member;
- (b) a current or former municipal officer or employee;
- (c) a member of a municipal commission established by the Council under s.143 of the *Community Charter*;
- (d) a member of an advisory planning commission appointed by the Council;
- (e) a member of a board of variance appointed by the Council;
- (f) a volunteer who participates in the delivery of services by the municipality under the supervision of an officer or employee of the municipality; and
- (g) a member of a select or standing committee who is not also a member of the Council.

2. The Municipality will indemnify its municipal officials against any claim for

damages or prosecution brought against them in connection with the exercise or intended exercise of their powers or the performance or intended performance of their duties or functions, including any legal costs incurred in a court proceedings arising out of the claim or prosecution.

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3. The provisions of Section 2 do not apply in any case where a court makes a finding that the official:
 - (a) has been grossly negligent or dishonest, or engaged in wilful or malicious misconduct;
 - (b) in the case of an officer or employee, has acted contrary to the terms and conditions of their employment; or
 - (c) has acted contrary to an order given by a person in authority over them.
4. Where indemnity is or may be claimed under this bylaw by a municipal official they shall, immediately on receipt thereof, forward to the Corporate Officer appointed by the Council under s.148 of the *Community Charter* every statement of claim, writ of summons, information, letter, document or advice relating to the claim or prosecution in respect of which the indemnity is or may be claimed.
5. Where indemnity is or may be claimed under this bylaw by a municipal official they shall not:
 - (a) voluntarily assume any liability, settle any claim or enter any plea except at their own cost, and no indemnification shall be paid in relation to any such assumption of liability, settlement or plea; or
 - (b) interfere with the Municipality in any negotiation or settlement or in any legal proceedings with respect to such claim or prosecution, including the appointment of legal counsel to defend such claim or prosecution, appointment of which shall be entirely at the discretion of the Municipality or its insurer;and wherever requested by the Municipality or its legal counsel such official shall:
 - (c) assist in securing of information and evidence and the attendance of witnesses and shall themselves, where required by the Municipality of its legal counsel, give evidence; and

- (d) co-operate with the Municipality in the defence of any action or proceedings or in the prosecution of any appeal taken by the Municipality on behalf of the official.
- 6. Compliance by municipal officials with the provisions of Sections 4 and 5 of this bylaw is a condition precedent to the Municipality's liability to indemnify them as provided in this bylaw.
- 7. Upon adoption of this bylaw, "Officers and Employees Indemnification Bylaw, 1986" (Bylaw No. 1673) is hereby repealed.

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- 8. This bylaw may be cited for all purposes as "District of Salmon Arm Municipal Officials Indemnification Bylaw No. 3411".

READ A FIRST TIME THIS	8th	DAY OF	November	2004
READ A SECOND TIME THIS	8th	DAY OF	November	2004
READ A THIRD TIME THIS	8th	DAY OF	November	2004
ADOPTED BY COUNCIL THIS	22nd	DAY OF	November	2004

“C.N. MAYES”
 MAYOR

“D.B. LAGORE”
 CORPORATE OFFICER