

**THE CORPORATION OF THE DISTRICT OF SUMMERLAND**

**BYLAW NUMBER 2013-021**

**A BYLAW TO PROVIDE FOR THE INDEMNIFICATION  
OF MUNICIPAL OFFICIALS**

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WHEREAS the *Local Government Act*, Section 287.2 authorizes the District to enact a bylaw to provide indemnity to municipal officers, employees and elected officials acting reasonably and in good faith in performing the duties and functions of their positions with the District;

NOW THEREFORE the Council of the District of Summerland in open meeting assembled enacts as follows:

**1. Title**

This Bylaw may be cited as the "District of Summerland Indemnification Bylaw No. 2013-021".

**2. Interpretation**

In this bylaw:

**"district"** means District of Summerland

**"indemnify"** means to pay the amounts required or incurred:

- (a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions;
- (b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a); or
- (c) in relation to an inquiry under the *Public Inquiry Act*, or to another proceeding, that involves the administration of the District or the conduct of District business,

but does not extend to a fine that is imposed as a result of a conviction for an offence, other than a strict or absolute liability offence;

**"municipal official"** means

- (a) a current or former member of Council;
- (b) a current or former employee or officer of the District; or
- (c) a person who is or was a person referred to in Section 287.(1) of the *Local Government Act*, but only in relation to the exercise of powers or performance of duties or functions for or on behalf of the District,

but does not include an independent service provider, professional advisor or contractor engaged by the District from time to time on a fee for service basis; and

**“willful misconduct”** in relation to a municipal official, includes, without limitation, willfully acting contrary to the terms and conditions of his or her employment or to a lawful direction or order of a superior.

### 3. Indemnification

The District will indemnify every municipal official against an action or prosecution brought against the municipal official, including, for certainty, reasonable legal costs incurred in relation to the proceeding, if the person to be indemnified:

- (a) promptly, after being served with a document initiating an action or prosecution, delivers a copy of same to the District’s Corporate Officer;
- (b) does not admit or assume liability, enter into a settlement, or enter a guilty plea except with the approval of Council;
- (c) consents in writing to the District having sole discretion to appoint and instruct legal counsel, conduct all necessary investigations, to negotiate and settle the action or prosecution, provided that if the person believes they have an interest that is in conflict with the interest of the District the person is entitled to independent legal counsel; and
- (d) assists in providing and securing information, evidence and witnesses, and cooperates with the District and their legal counsel in the defence of the action or prosecution.

### 4. Exceptions

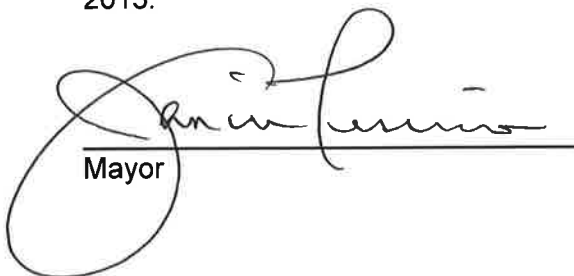
The Council will not seek indemnity against a municipal official in respect of any action of the municipal official which results in a claim for damages against the District, except where a court of competent jurisdiction makes a finding that the person has been guilty of dishonesty, gross negligence, or malicious or willful misconduct.

### 5. Repeal

That ‘Summerland Officers and Employees Indemnification Authorization Bylaw No. 2293, 1987’ is hereby repealed.

Read a first, second and third time this 15<sup>th</sup> day of October, 2013.

Adopted by the Municipal Council of the District of Summerland this 28<sup>th</sup> day of October, 2013.

  
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Mayor

  
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Corporate Officer