

CITY OF DUNCAN

BYLAW NO. 3108, 2014

A BYLAW TO PROVIDE FOR THE INDEMNIFICATION OF MUNICIPAL OFFICIALS

WHEREAS Section 287.2 of the *Local Government Act* authorizes the City 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 City;

NOW THEREFORE the Council of the City of Duncan, in open meeting assembled, enacts as follows:

1. Title

This bylaw may be cited as “City of Duncan Indemnification Bylaw No. 3108, 2014.”

2. Interpretation

In this bylaw

“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 function;
- (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 City or the conduct of City 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 City; 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 City,

But does not include an independent service provider, professional advisor or contractor engaged by the City 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 City 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 Director of Corporate Services;
- (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 City 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 City, the person is entitled to independent legal counsel; and
- (d) Assists in providing and securing information, evidence, and witnesses, and cooperates with the City 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 City, 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.

8. Repeal

“Council Members, Officers and Employees Indemnity Bylaw, 1992, No. 1693” as amended is repealed.

PASSED FIRST READING 2014-FEB-17
PASSED SECOND READING 2014-FEB-17
PASSED THIRD READING 2014-FEB-17
ADOPTED 2014-MAR-17

Phil Kent,
Mayor

Karen Burley,
Director of Corporate Services