

## SUMMARY:

The Council, Officer and Employee Indemnification Bylaw provides indemnification for members of Council, officers or employees against legal actions arising out of the performance of their duties provided such claims are not a direct result of dishonesty, gross negligence, malicious or wilful misconduct.

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**CITY OF KELOWNA**  
**BYLAW NO. 8462**  
***REVISED: December 13<sup>th</sup>, 1999***

**Council, Officer and Employee Indemnification Bylaw**

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The Municipal Council of the City of Kelowna in open meeting enacts as follows:

CITATION

1. This bylaw shall be cited for all purposes as "Council, Officer and Employee Indemnification Bylaw No. 8462".

DEFINITIONS

2. In this bylaw unless the context otherwise requires:

"City" means the City of Kelowna;

"Members of Council, Officers and Employees" means the following:

- (i) a member of the City Council, either present or former;
- (ii) a member of the City's Advisory Planning Commission, either present or former;
- (iii) a member of the City's Board of Variance, either present or former;
- (iv) an officer or employee of the City, either present or former;
- (v) a volunteer firefighter for the City, either present or former;
- (vi) a special constable for the City, either present or former;
- (vii) a member of the City's Community Heritage Commission, either present or former;
- (viii) a member of the City's Agricultural Advisory Committee, either present or former;
- (ix) a member of the City's Kelowna Heritage Foundation, either present or former;
- (x) a member of the City's Social Planning Board, either present or former;
- (xi) a member of the City's Community Housing Needs Committee, either present or former;
- (xii) a volunteer who participates in the delivery of services by the City under the supervision of an officer or employee of the City; and
- (xiii) an officer or employee of the City when working on a project for the Regional District of Central Okanagan that has been approved by the City.

INDEMNIFICATION

3. The City will indemnify its members of Council, officers and employees against a claim for damages against a member of Council, officer or employee arising out of the performance of their duties, and in addition shall pay legal costs incurred in a court proceeding arising out of the claim, provided such claim is not a result of dishonesty, gross negligence, malicious or wilful misconduct on the part of the member of Council, officer or employee.

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4. Where indemnity under this bylaw is or may be claimed by a **member of Council, officer or employee**, such **member of Council, officer or employee** shall immediately, upon receipt thereof, forward to the City Clerk every Writ, Statement of Claim, letter or other document or advice and advise of any communication both verbal and written relating to a claim against them in respect of which indemnity is or may be claimed under this bylaw.
5. Where indemnity under this bylaw is or may be claimed by a **member of Council, officer or employee**, such **member of Council, officer or employee** shall not:
  - (i) voluntarily assume any liability or settle any claim except at their own cost and no indemnification will be paid in relation thereof;
  - (ii) interfere with the **City** in any negotiation, settlement or in any legal proceedings with respect to such claim;and that whenever requested by the **City**, such **member of Council, officer or employee** shall:
  - (iii) aid in the securing of information and evidence and the attendance of witnesses and shall himself, where required by the **City** give evidence; and
  - (iv) cooperate with the **City** in the defence of any action or proceedings or in the prosecution of any appeal taken by the **City** on behalf of a **member of Council, officer or employee**.
6. Compliance by **members of Council, officers or employees** with the provisions of Section 5 of this bylaw constitutes a condition precedent to the **City's** liability to indemnify **members of Council, officers or employees** as provided in this bylaw.
7. This bylaw shall apply to any existing claim for damages against a **member of Council, officer or employee** initiated or outstanding prior to the adoption of this bylaw.

ENACTMENTS

8. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time.

HEADINGS

9. The headings given to Parts, Sections and Paragraphs in this bylaw are for convenience of reference only. They do not form part of this bylaw and will not be used in the interpretation of this bylaw.

REPEAL

10. "Council, Officer and Employee Indemnification Bylaw No. 6166-87" is hereby repealed.

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Read a first, second and third time by the Municipal Council this 29<sup>th</sup> day of November, 1999.

Adopted by the Municipal Council of the City of Kelowna this 13<sup>th</sup> day of December, 1999.

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"Sharon Shepherd"

Mayor

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"D.L. Shipclark"

City Clerk