

DISTRICT OF STEWART

BYLAW NO. 798- 2004

A bylaw to provide indemnification for Municipal Officials.

WHEREAS Section 287.2 of the *Local Government Act*, RS 1996, c.323 provides that a council may by bylaw provide for the indemnification of municipal officials;

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

CITATION:

1. This Bylaw may be cited for all purposes as "Indemnification Bylaw No.798-2004."

DEFINITIONS:

2. "District" means the District of Stewart, a municipal body duly incorporated.
3. "Municipal Official" means:
 - (a) a current or former council member;
 - (b) a current or former municipal officer or employee, or
 - (c) volunteer firefighters and members and former members of Committees and Commissions appointed by the Council of the District but only in relation to the exercise of powers or the performance of duties or functions for or on behalf of the District.
4. For greater certainty, the definition of Municipal Official in section 3 does not include independent contractors engaged by the District from time to time or professional persons who advise the municipality from time to time on a fee for service basis.

INDEMNIFICATION:

5. The District will indemnify its Municipal Officials against any 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 Part 2 of the *Inquiry Act*, or to another proceeding that involves the administration of the District or the conduct of the District's business;

except where the claim arises out of the dishonesty, gross negligence or malicious or wilful misconduct of the Municipal Official as determined by a Court of competent jurisdiction .

When indemnity is paid by the District, the District will, in addition, pay legal costs incurred in any Court proceedings arising out of the claim.

6. The District of Stewart will not pay a fine that is imposed as a result of an Municipal Official's conviction for an offence that is not a strict or absolute liability offence.
7. The District will not seek indemnity against a Municipal Official in respect of any conduct of the Municipal Official that results in a claim for damages against the District unless the Municipal Official has been found guilty by a Court of dishonesty, gross negligence or malicious or wilful misconduct.
8. Where indemnity under this Bylaw may be claimed by a Municipal Official, such Municipal Official shall immediately, upon receipt thereof, forward to the Clerk of the District every statement of claim, writ, letter, document or advice relating to a claim against them in respect of which indemnity is or may be claimed under this bylaw.
9. Where indemnity under this bylaw is or may be claimed by a Municipal Official, such Municipal Official shall not:
 - (a) voluntarily assume any liability or settle any claim except at their own cost and no indemnification will be paid in relation thereto; or
 - (b) interfere with the District in any negotiation, settlement or in any legal proceedings with respect to such claim;and whenever requested by the District shall:
 - (c) aid in the securing of information and evidence and the attendance of witnesses and shall themselves give evidence and cooperate with the District in the defence of any action or proceedings or in the prosecution of any appeal taken by the District on behalf of the Municipal Official.
10. Compliance by Municipal Officials with the provisions of this Bylaw constitutes a condition precedent to the District's liability to indemnify Municipal Officials as provided in this Bylaw.
11. The District's liability to indemnify Municipal Officials extends only to that portion of any damages or costs that are in excess of any insurance coverage to which a Municipal Official is entitled in respect of the claim in question.

READ A FIRST TIME this 26th day of April, 2004.

READ A SECOND TIME this 26th day of April, 2004.

READ A THIRD TIME this 26th day of April, 2004.

ADOPTED this 10th day of May, 2004.

Angela Brand Danuser
Mayor

John Holland
Clerk