

DISTRICT OF FORT ST. JAMES
INDEMNIFICATION BYLAW NO. 927, 2013

A Bylaw to provide for the indemnification of municipal officials.

The Council of the District of Fort St. James enacts as follows:

Citation

1. This Bylaw may be cited as “District of Fort St. James Indemnification Bylaw No. 927, 2013”.

Interpretation

2. 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 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 Municipality or the conduct of Municipality 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 Municipality; 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 Municipality,

but does not include an independent service provider, professional advisor or contractor engaged by the Municipality 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.

Indemnification

3. The Municipality 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 Municipality'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 Municipality 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 Municipality the person is entitled to independent legal counsel; and
 - (d) assists in providing and securing information, evidence, and witnesses, and cooperates with the Municipality and their legal counsel in the defence of the action or prosecution.

Exceptions

4. 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 Municipality, 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.

Repeal

5. "District of Fort St. James Indemnification Bylaw No. 603, 1995" is repealed.

READ A FIRST, SECOND AND THIRD TIME THE 27th DAY OF MARCH, 2013.

ADOPTED THE 10th DAY OF APRIL, 2013.

[Original Signed]

Rob MacDougall, Mayor

[Original Signed]

Kevin Crook, Chief Administrative Officer