

# CITY OF GREENWOOD

## BYLAW NO. 807

### *A Bylaw in respect of the indemnification of Council members, officers, and employees of the City*

---

---

WHEREAS the *Local Government Act* provides that the City Council may by bylaw provide that the City will indemnify its officials against an award of damages or penalty imposed as a result of a claim or prosecution brought against them in connection with the performance of their duties, and in addition, pay legal costs incurred in a court proceeding arising out of the claim or prosecution;

*Therefore, the Council of The Corporation of the City of Greenwood, in open meeting assembled, enacts as follows:*

#### CITATION

1. This Bylaw may be cited for all purposes as "City of Greenwood Indemnification Bylaw, 2007", No. 807".

#### DEFINITIONS

2. In this Bylaw,

"City" means the City of Greenwood; and,

"Municipal Official" means:

- (a) a current or former council member;
- (b) a current or former municipal officer or employee;
- (c) a member of a municipal commission established under s.143 of the *Community Charter*;
- (d) an election official within the meaning of Part 3 of the *Local Government Act*,
- (e) a member of a board of variance;
- (f) a volunteer fire fighter or a special constable;
- (g) a volunteer who participates in the delivery of services by the City under the supervision of an officer or employee of the City; and,

- (h) a member of a select or standing committee who is not also a member of the City Council.

### **INDEMNIFICATION**

3. The City will indemnify its municipal officials in respect of all amounts required or incurred:
  - (a) To defend an action or prosecution brought against them in connection with the exercise or intended exercise of their powers or the performance or intended performance of their duties or functions; and,
  - (b) To satisfy a judgment, award, or penalty imposed in an action or prosecution referred to in subsection (a) above, other than a fine that is imposed as a result of their conviction for an offence that is not a strict or absolute liability offence.
4. Section 3 does not apply in any case:
  - (a) Where a court makes a finding in the action or prosecution that the municipal official:
    - (i) has been dishonest or grossly negligent, or has engaged in malicious or wilful misconduct;
    - (ii) in the case of an officer or employee, has acted contrary to the terms and conditions of the municipal official's employment; or,
    - (iii) has acted contrary to an order given by a person in authority over the municipal official; or,
    - (iv) the action is for libel or slander.
  - (b) Where the municipal official has voluntarily assumed any liability, entered into any settlement, or entered any plea of guilt in the action or prosecution.

### **PROCEDURE AND CONDITIONS FOR INDEMNIFICATION**

5. Where indemnity is or may be claimed under this bylaw by a municipal official, the municipal official shall not voluntarily assume any liability, enter into any settlement, or enter any plea of guilt except at the municipal official's own cost.
6. A municipal official shall, upon becoming aware of an action or prosecution, or potential action or prosecution, against the municipal official for which indemnity is or may be claimed under this bylaw, immediately notify the corporate officer appointed by the City Council under s.148 of the *Community Charter* of the action or prosecution, or potential action or prosecution.

7. A municipal official shall, upon being served with a Writ of Summons, Statement of Claim, Notice of Claim, Information, or other document initiating an action or prosecution against the municipal official for which indemnity is or may be claimed under this bylaw, immediately deliver a copy of the Writ of Summons, Statement of Claim, Notice of Claim, Information, or other document to the corporate officer appointed by the City Council under s.148 of the *Community Charter*.
8. Upon receiving a copy of a Writ of Summons, Statement of Claim, Notice of Claim, Information, or other document initiating an action or prosecution against the municipal official for which indemnity is or may be claimed under this bylaw, the City will assume conduct of the municipal official's defence in the action or prosecution and, for such purposes will, in its sole discretion, appoint and instruct defence counsel, conduct all necessary investigations, enter into settlement discussions, and where appropriate settle the action or prosecution.
9. Where the City has assumed conduct of the defence of a municipal official in an action or prosecution against the municipal official for which indemnity is or may be claimed under this bylaw, the municipal official shall not interfere with the City in the conduct of that defence.
10. Where the City has assumed conduct of the defence of a municipal official in an action or prosecution against the municipal official for which indemnity is or may be claimed under this bylaw, the municipal official shall assist in the defence whenever requested by the City or defence counsel, which assistance may include:
  - (a) Giving evidence;
  - (b) Assisting the City and defence counsel in securing other information, evidence, and the attendance of witnesses; and
  - (c) Co-operating with the City and defence counsel in the defence of the action or prosecution or in respect of any appeal relating to the action or prosecution.
11. Where a court makes a finding in the action or prosecution that the municipal official:
  - (a) acted outside of the exercise or intended exercise of the municipal official's powers or the performance or intended performance of the municipal official's duties or functions;
  - (b) has been dishonest or grossly negligent, or has engaged in malicious or wilful misconduct;
  - (c) in the case of an officer or employee, has acted contrary to the terms and conditions of the municipal official's employment;
  - (d) has acted contrary to an order given by a person in authority over the municipal official; or

(e) has been found to have libelled or slandered a person or persons,

the municipal official shall reimburse the City for all amounts incurred by it in the conduct of the defence of the municipal official and the City shall not be responsible for any judgment, award, or penalty imposed on the municipal official in the action or prosecution.

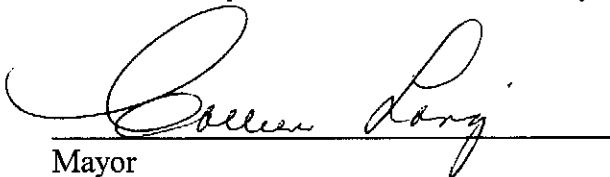
12. Compliance by municipal officials with the provisions of this bylaw is a condition precedent to the City's liability to indemnify them as provided in this bylaw.

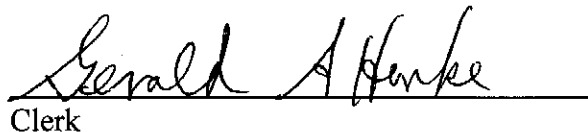
READ A FIRST TIME this 11<sup>th</sup> day of June, 2007.

READ A SECOND TIME this 11<sup>th</sup> day of June, 2007.

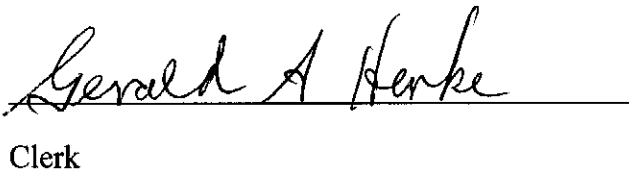
READ A THIRD TIME this 11<sup>th</sup> day of June, 2007.

ADOPTED by the Council on the 25<sup>th</sup> day of June, 2007.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

Certified a true copy of Bylaw No. 807 as adopted.

  
\_\_\_\_\_  
Clerk