



VILLAGE OF SAYWARD

BYLAW NO. 458

A BYLAW TO INDEMNIFY MUNICIPAL PUBLIC OFFICERS

WHEREAS Section 740 of the *Local Government Act* provides that a Council may do the following:

- (a) by bylaw, provide for the indemnification of municipal officials in accordance with the bylaw;
- (b) by resolution in a specific case, indemnify a municipal official.

NOW THEREFORE the Council of the Village of Sayward, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited as “**Indemnification Bylaw No. 458, 2019**”.

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

VILLAGE means the Village of Sayward;

COUNCIL means the Council of the Village;

MUNICIPAL OFFICIAL means:

- (a) Members of Council
- (b) Members of a commission established by the Village;
- (c) Members of a select or standing committee of Council who are not also members of Council;
- (d) Members of the Village Board of Variance;
- (e) Members of an advisory committee of Council;
- (f) Volunteers who participate in the delivery of services by the Village or by a body referred to in subsections (a) through (d) under the supervision of a person referred to in paragraphs (f);
- (g) An officer or employee of the City.

3. FORMER COUNCIL MEMBERS, OFFICERS AND EMPLOYEES

The words "Municipal Official" include persons who were a Municipal Official of the Village, at the time the cause of action arose in respect of which a claim for damages against that person or against the City is brought or alleged.

4. INDEMNIFICATION

The Village will:

- (a) defend an action brought against a Municipal Official 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) indemnify a Municipal Official against a judgment or award imposed in an action referred to in paragraph 4(a);

5. INDEMNITY AGAINST MUNICIPAL OFFICIAL

For any action of a Municipal Official that results in a claim for damages against the Village, in accordance with the Local Government Act the Village may seek indemnity or reimbursement from that person where a court makes a finding that the person has been guilty of dishonesty, gross negligence or malicious or willful misconduct.

- 6. Where indemnity is or may be claimed under this bylaw by a municipal official they shall, immediately on receipt thereof, forward to the Corporate Officer appointed by the Council under s.148 of the Community Charter every statement of claim, writ of summons, information, letter, document or advice relating to the claim or prosecution in respect of which the indemnity is or may be claimed.
- 7. Where indemnity is or may be claimed under this bylaw by a municipal official they shall not:
 - (a) voluntarily assume any liability, settle any claim or enter any plea except at their own cost, and no indemnification shall be paid in relation to any such assumption of liability, settlement or plea; or
 - (b) interfere with the Municipality in any negotiation or settlement or in any legal proceedings with respect to such claim or prosecution, including the appointment of legal counsel to defend such claim or prosecution, appointment of which shall be entirely at the discretion of the Municipality or its insurer; and
 - (c) wherever requested by the Municipality or its legal counsel such municipal official shall: assist in securing of information and evidence and the attendance of witnesses and shall themselves, where required by the Municipality of its legal counsel, give evidence; and
 - (d) co-operate with the Municipality in the defense of any action or proceedings or in the prosecution of any appeal taken by the Municipality on behalf of the official.
- 8. Compliance by municipal officials with the provisions of Sections 6 and 7 of this bylaw is a condition precedent to the Municipality's liability to indemnify them as provided in this bylaw.

9. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this bylaw.

Read a first time on the 17th day of September 2019.

Read a second time on the 17th day of September 2019.

Read a third time on the 17th day of September 2019.

Adopted on the 8th day of October 2019.

Certified a true copy of Bylaw No. 458
this ___ day of _____, _____

Chief Administrative Officer
Village of Sayward

Original signed by "J. MacDonald"

Mayor

Original signed by "L. Clark"

Corporate Officer