

DISTRICT OF SOOKE

BY-LAW NO. 5, 1999

A by-law to provide indemnification for Members of Council, Officers and Employees against actions arising from the performance of their duties.

The Council of the District of Sooke, in open meeting assembled, enacts as follows:

1. This By-law may be cited as **“MEMBERS OF COUNCIL, OFFICERS AND EMPLOYEES INDEMNIFICATION BY-LAW NO. 5, 1999”**.

2. In this By-law, unless the context otherwise requires;

“Municipality” – means the District of Sooke duly incorporated by Letters Patent pursuant to the provision of the Municipal Act (British Columbia).

“Members of Council, Officers and Employees” – means and shall include present Members of Council, officers, employees, volunteer firefighters and former members of Council, officers and employees of the Municipality against whom any claim for damages is brought arising out of the performance of their duties while members of Council, officers, or employees of the Municipality but does not include independent contractors engaged by the Municipality from time to time or professional persons such as lawyers, accountants, architects, planners, engineers, and others who advise the Municipality from time to time on a fee for service basis.

3. The Municipality will indemnify its Members of Council, officers and employees against any claims for damages against a member of Council, officer or employee arising out of the performance of their duty and, in addition, pay legal costs incurred in a court proceeding arising out of the claim.
4. The provisions of Section 2 hereof do not apply in any case where a member of Council, officer or employee:
 - a) has been grossly negligent, or,
 - b) has willfully acted contrary to the terms and conditions of the employment; or,
 - c) has acted contrary to an order given by a superior.
5. The Municipality will not seek indemnity against its Members of Council, officers or employees where the actions of those Members

of Council, officers or employees result in a claim for damages against the Municipality by a third party unless the Member of Council, officer, employee has been grossly negligent or has willfully acted contrary to the terms of their employment, or to an order of a superior.

6.

- a) Where indemnity under this By-law is or may be claimed by any Member of Council, officer or employee, they shall immediately, upon receipt thereof, forward to the Chief Administrative Officer of the Municipality every Statement of Claim, Writ, letter, document or advise relating to a claim against them in respect of which indemnity is or may be claimed under this By-law.
- b) Where indemnity under this By-law 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 liability or settle any claim except at their own cost and no indemnification will be paid in relations thereto; or,
 - ii. interfere with the Municipality in any negotiation, settlement or in any legal proceedings with respect to such claim;

and that whenever requested by the Municipality such Member of Council, officer or employee shall:

- iii. aid in securing of information and evidence and the attendance of witnesses and shall themselves, where required by the Municipality give evidence; and,
- iv. cooperate with the Municipality in the defence of any action or proceedings or in the prosecution of any appeal taken by the Municipality on behalf of the Member of Council, officer or employee.

7. Compliance by Members of Council, officers and employees with the provisions of Section 6 of this By-law constitutes a condition precedent to the Municipality's liability to indemnify Members of Council, officers or employees as provided in this By-law.

READ a first time this 7th day of December, 1999.

READ a second time this 7th day of December, 1999.

READ a third time this 7th of December, 1999.

ADOPTED this 13th day of December, 1999.

CERTIFIED A TRUE AND CORRECT COPY of “**MEMBERS OF COUNCIL, OFFICERS AND EMPLOYEES INDEMNIFICATION BY-LAW 5, 1999**”.

David J. Gawley
A/Chief Administrative Officer

THE CORPORATE SEAL OF THE
DISTRICT OF SOOKE WAS HERETO
AFFIXED IN THE PRESENCE OF:

Ed Macgregor
Mayor

David J. Gawley
A/Chief Administrative Officer