

Regional District of Central Okanagan

By-law No. 343

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Being a by-law to provide indemnification for officers, employees and members of the regional board of the Regional District of Central Okanagan against actions arising from the performance of their duties.

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WHEREAS Section 262 of the Municipal Act R.S.B.C. 1979 Chapter 255 and amendments thereto provides for a procedure whereby the Regional Board may indemnify its officers and employees against claims for damages;

NOW THEREFORE the Regional Board of the Regional District of Central Okanagan in open meeting assembled enacts as follows:

1. In this By-law:

**"officers, employees and members of the regional board"** means and shall include present officers, employees and members of the regional board and former officers, employees and members of the regional board of the Regional District of Central Okanagan against whom any claim for damages is brought arising out of the performance of their duties while they were officers, employees and members of the regional board of the Regional District including those persons referred to in Section 755.1(2) d, f, h, i, j and k of the Municipal Act R.S.B.C. 1979 and amendments thereto, but does not include independent contractors engaged by the Regional District from time to time or professional persons such as lawyers, accountants, architects, planners, engineers and others who advise the Regional District from time to time on a fee for service basis;

**"Regional District of Central Okanagan"** means the body corporate of that name duly incorporated by Letters Patent pursuant to the provisions of the Municipal Act (British Columbia).

2. The Regional District of Central Okanagan will indemnify its officers, employees and members of the regional board against claims for damages made after the final adoption of this by-law whether the grounds for the claim arose before or after the date of final adoption of this bylaw, against an officer, employee or member of the regional board arising out of the performance of his/her duties except where the claim arises out of the gross negligence of the officer, employee or member of the regional board or where in relation to the action that gives rise to the claim against an officer or employee, the officer or employee has wilfully acted contrary to the terms of his/her employment or an order of a superior. When indemnity is paid by the Regional District of Central Okanagan, the Regional District of Central Okanagan will, in addition, pay legal costs incurred in any court proceedings arising out of the claim.

3. The Regional District of Central Okanagan will not seek Indemnity against its officers, employees and members of the regional board in respect of any action of the officer, employee or member that results in a claim for damages against the Regional District of Central Okanagan but the Regional District of Central Okanagan may seek indemnity against an officer, employee or member

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of the regional board where the claim arises out of the gross negligence of the officer, employee or member of the regional board or where in relation to the action that gives rise to the claim against an officer or employee, the officer or employee has wilfully acted contrary to the terms of his/her employment or an order of a superior.

- (a) Where indemnity under this by-law is or may be claimed by any officer, employee or member of the regional board such officer, employee or member of the regional board shall immediately, upon receipt thereof, forward to the Regional District of Central Okanagan every Statement of Claim, Writ, letter, document or advice relating to a claim against him/her 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 an officer, employee or member of the regional board such officer, employee and member of the regional board shall not:
  - (i) voluntarily assume any liability or settle any claim except at his/her own cost and no indemnification will be paid in relation thereto; or
  - (ii) interfere with the Regional District of Central Okanagan in any negotiation, settlement or in any legal proceedings with respect to such claim;

and that whenever requested by the Regional District such officer, employee or member of the regional board shall:

- (iii) aid in securing of information and evidence and the attendance of witnesses and shall himself/herself where required by the Regional District of Central Okanagan, give evidence; and
- (iv) cooperate with the Regional District of Central Okanagan in the defence of any action or proceedings or in the prosecution of any appeal taken by the Regional District of Central Okanagan on behalf of the officer, employee or member of the regional board.

4. Compliance by officers, employees and members of the regional board with the provisions of Section 4 of this by-law constitutes a condition precedent to the Regional District of Central Okanagan's liability to indemnify officers, employees and members of the regional board as provided in this by-law.

5. The Regional District of Central Okanagan's liability to indemnify officers, employees and members of the regional board extends only to that portion of any damages or costs that are in excess of any insurance coverage that an officer, employee or member of the regional board is entitled to in respect of the claim in questions.

6. This by-law repeals and replaces by-law #227 cited as the "Regional District of Central Okanagan Officers and Employees Indemnification By-law #227, 1982".

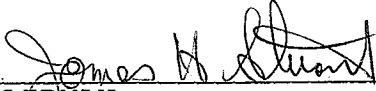
7. This By-law may be cited as the "Regional District of Central Okanagan Officers, Employees and Members of the Regional Board Indemnification By-law No. 343, 1987."

READ A FIRST TIME THIS 14th DAY OF September, 1987.

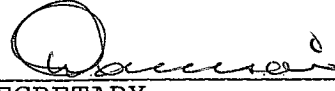
READ A SECOND TIME THIS 14th DAY OF September, 1987.

READ A THIRD TIME THIS 14th DAY OF September, 1987.

RECONSIDERED AND ADOPTED THIS 14th DAY OF September, 1987.



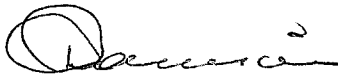
CHAIRMAN



SECRETARY

I hereby certify that the foregoing is a true and correct copy of By-law No. 343, cited as "Regional District of Central Okanagan Officer, Employees and Members of the Regional Board Indemnification By-law No. 343, 1987" which was read a first, second and third time, reconsidered and finally adopted on the 14th day of September, 1987.

Dated at Kelowna, B.C. this 16th day of September, 1987.



Secretary