

THE CORPORATION OF THE TOWNSHIP OF TARBUTT
BY-LAW 2025 - 20

A BY-LAW to provide Indemnification for Members of Council, Officers and Employees with respect to certain actions or proceedings arising from their duties while acting on behalf of the Corporation of The Township of Tarbutt.

WHEREAS Section 5 (3) of the *Municipal Act*, S.O. 2001, c 25, as amended, provides that municipal powers, including a municipality's capacity, rights, powers and privileges under Section 9, shall be exercised by by-law; and

WHEREAS Section 8 (1) of the *Municipal Act*, 2001, as amended, provides that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues; and

WHEREAS Section 279 of the *Municipal Act*, 2001, as amended, authorizes Council to pass By-laws for paying any damages or costs awarded against the Members of Council, including the Mayor, Officers and Employees, for expenses incurred by them for assuming the defence costs incurred as a result of any action or other proceeding arising out of acts or omissions done or made by them in their capacity as members of Council, Officers or Employees of The Township of Tarbutt; and

WHEREAS Section 14 of the *Municipal Conflict of Interest Act* provides that a municipality may indemnify members of a municipal council for costs or expenses incurred to defend a proceeding brought under the *Municipal Conflict of Interest Act*, provided that the Councillor is found not guilty of the allegation brought under Section 5 of the Act; and

NOW THEREFORE BE IT RESOLVED THAT the Council of The Corporation of The Township of Tarbutt enacts as follows:

1. DEFINITIONS:

"Action" means a civil, criminal or administrative action or proceeding commenced or threatened to be commenced seeking damages or some other remedy related to an alleged act or omission of an employee or council member acting in the course of their employment or office with the Township. Action is deemed to include any counterclaim or third party claim, but shall not include a legal proceeding related to disciplinary action taken by the Township as an employer, except insofar as the Employee or Officer is exercising a Bonafide management function.

"Council" means the duly elected Council of The Township of Tarbutt.

"Councillor" means an elected representative of The Township of Tarbutt or a former elected representative of The Township of Tarbutt who, during their term of office with the Township, did or failed to do an act which is alleged to be related to the Action commenced against the Councillor. "Employee" means an employee, former employee, salaried officer or former salaried officer, including the Mayor, who, during the term of their employment with The Township of Tarbutt, did or failed to do an act alleged to be related to the Action commenced against the Employee.

"Township" means The Corporation of The Township of Tarbutt.

2. EXCLUSIONS

This by-law does not apply to:

- a. An Action or proceeding arising from a Code of Conduct investigation enacted pursuant to Sec. 223.2 of the *Municipal Act*.
- b. An Action or proceeding arising from any dishonest, bad faith, fraudulent or criminal act committed by an individual, including but not limited to abuse of public office, but this exclusion does not apply to any other individual who did not participate in such act or who did not have personal knowledge thereof;

- c. An Action or proceeding resulting from an individual gaining a personal profit or advantage to which they were not legally entitled, or the return by the individual of any money paid to them, if payment of such money is held to be in violation of law;
- d. An Action or proceeding relating to conduct which falls outside the scope of the individual's duty or authority, unless the individual was acting in good faith and held an honest and reasonable belief that the conduct was within their duty or authority and was in the best interest of the Township;
- e. An Action or proceeding involving sexual misconduct;
- f. Any indemnification which is otherwise covered by insurance provided to the Township or the individual by any policy of insurance. Where partial coverage is provided, the indemnification pursuant to this By-law shall only extend to that portion not covered by insurance.

3. INDEMNIFICATION

- a. Subject to the exclusions set out in Section 2 of this By-law, the Township shall indemnify an individual in the manner and to the extent provided by Section 4 of this By-law in respect of any civil or administrative action or proceeding, including appeals, by a third party for:
 - i) Acts or omissions arising out of the scope of the individual's authority or duty, or within the course of an individual's employment or office if:
 - a. The individual was acting within the individual's scope of authority or duty;
 - b. The individual acted honestly and in good faith; and
 - c. In the case of administrative action or proceeding, that is enforced by a monetary penalty the individual had reasonable grounds for believing that his or her conduct was lawful.
 - ii) Acts or omissions relating to the conduct which falls outside of the individual's duty or authority, provided that:
 - a. The individual was acting in good faith and held an honest and reasonable belief that the conduct was within their duty or authority and was in the best interest of the Township; and
 - b. In the case of administrative action or proceeding, that is enforced by a monetary penalty, the individual had reasonable grounds for believing that his or her conduct was lawful.

4. MANNER AND EXTENT OF INDEMNIFICATION

The Township shall indemnify an individual who meets the requirements of Section 3 a. of this By-law by:

- a. Assuming the cost of defending such individual in an action or proceeding;
- b. Paying any damages or costs, including a monetary penalty, awarded against such individual as a result of an Action or proceeding;
- c. Paying, either by direct payment or by reimbursement, any expenses reasonably incurred by such individual as a result of an action or proceeding; and
- d. Paying any sum required in connection with the settlement of an action or proceeding to the extent that such costs, damages, expenses or sums are not assumed, paid or reimbursed under any provision of the Township's insurance for the benefit and protection of such individual against any liability incurred by such individual.

5. PERSONS SERVED WITH PROCESS

- a. Where an individual is served with any process issued out of or authorized by any court, administrative tribunal or other administrative, investigative or quasi-judicial body, other than a subpoena, in connection with any action or proceeding, the individual shall forthwith deliver the process or a copy thereof to the Chief

Administrative Officer/Clerk who, in turn, shall deliver a copy to the solicitor.

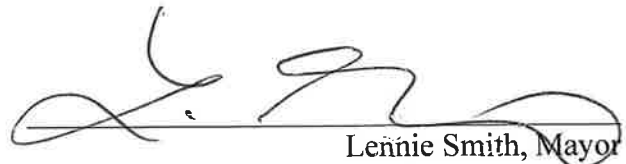
6. LAWYERS RETAINED BY THE MUNICIPALITY'S INSURERS

- a. Notwithstanding any other provision of this By-law to the contrary, any lawyer retained by the Township's insurers from time to time to defend the Township in any action or proceeding may represent an individual with respect to that action or proceeding, unless the Township instructs such individual otherwise.

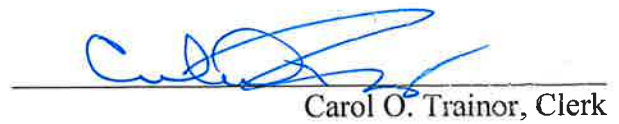
7. ENACTMENT

1. THAT any previous by-law or resolution, or any section, clause or policy which conflicts with this by-law be and is hereby repealed.
2. THAT this By-law shall come into force and take effect upon the date of passing.
3. THAT this by-law may be cited as the *Indemnification By-law* for The Township of Tarbutt.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME and finally passed this Thirteenth day of August, 2025.



Lennie Smith, Mayor



Carol O. Trainor, Clerk