 <p>Town of <b>CANMORE</b></p>	<h2 style="text-align: center;">Council Policy</h2>
<b>Policy Title:</b>	<b>Employment Related Legal Proceedings</b>
<b>Policy Number:</b>	EX-009
<b>Date in Effect:</b>	June 27, 2017
<b>Current as of:</b>	July 6, 2021

### POLICY STATEMENT

1. It is the policy of the Town of Canmore ("Town") that it will provide legal representation and compensate employees and elected officials for costs, charges and expenses in reference to legal proceedings as a result of action taken by the employee/ elected official in his or her capacity as an employee/ elected official of the Town.
  
2. This policy applies to all employees and elected officials of the Town of Canmore.

### PURPOSE

3. This policy establishes the guidelines for when and how the Town will provide legal representation and compensation for its employees and elected officials.

### DEFINITIONS

4. "Costs, charges and expenses" means, but is not limited to, an amount paid to settle any action or to satisfy any judgment, legal fees, other professional fees, out-of-pocket expenses for attending proceedings including discoveries, trials, hearings and meetings, and any amount for which the employee/ elected official is liable by reason of any statutory provision, whether civil, criminal or otherwise.
  
5. "Elected officials" means Town council members and the Mayor of the Town, along with their estates, executors, administrators, legal representatives and lawful heirs.
  
6. "Employee" means the CAO, managers, supervisors, employees, and former employees of the Town, along with their estates, executors, administrators, legal representatives and lawful heirs.
  
7. "Honestly and in good faith" means acting honestly and in good faith with a view to the best interests of the Town and, in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, actions made by the employee/elected official where the employee/ elected official had reasonable grounds for believing that the employee's/ elected official's conduct was lawful.

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- 8. "Legal proceedings" means any proceeding, investigation, inquiry or hearing before a court or administrative tribunal, whether civil, criminal, administrative, investigative or otherwise.

**INDEMNIFICATION**

- 9. Subject to sections 10 and 11 of this policy, the Town agrees to indemnify employees/ elected officials from and against any and all costs, charges or expenses suffered or incurred by the employees/elected officials, as a result or by reason of the employee/ elected official being or having been an employee/ elected official of the Town or by reason of any action taken by the employee/ elected official in his or her capacity as an employee/ elected official of the Town.
- 10. If a court, administrative tribunal or other competent adjudicator determines, or the Town and the employee/elected official agree, that:
  - a) The employee/ elected official failed to act honestly and in good faith;
  - b) The employee/elected official acted outside the scope of his or her duties; or
  - c) The employee's/ elected official's actions amount to fraud, dishonesty, wilful neglect, gross negligence or wilful default;

then the Town will not indemnify the employee/ elected official for any costs, charges or expenses.

- 11. The Town will not indemnify employees/ elected officials for any costs, charges or expenses where an employee/ elected official fails to participate in the investigation (including any inquiry, review or assessment that the Town may instigate concerning an actual or potential legal proceedings) and conduct of legal proceedings as reasonably required by the Town.

**INSURANCE**

- 12. The Town shall obtain and maintain an insurance policy with respect to liability relating to its employees/ elected officials.
- 13. The Town shall pay all premiums and exercise all rights and options under its insurance policy to extend the coverage under the insurance policy for the maximum discovery period or run off coverage period permissible under the insurance policy.

**RIGHT TO RETAIN COUNSEL**

- 14. The insurer will appoint counsel to represent the employee/ elected official or, if the event is not an insurable event, the Town will promptly retain counsel to represent the employee/ elected official.
- 15. The employee/ elected official shall have the right to retain other counsel to act on his or her behalf, provided that the fees and disbursements of such other counsel shall be paid by the employee/ elected official, unless:
  - a) The employee/ elected official and the Town mutually agree to the retention of such other counsel, in which event the Town will pay the reasonable fees and disbursements of such other counsel;

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- b) Where legal proceedings include both the Town and the employee/ elected official, and representation of both parties by the same counsel could be inappropriate due to actual or potential differing interests between the Town and the employee/elected official (including the availability of different defences), in which event:
  - i. The Town will request the insurer to appoint separate counsel for the employee/ elected official and for the insurer to pay the reasonable fees and disbursements of such counsel; or,
  - ii. If not an insurable event or if the insurer refuses to appoint separate counsel for the employee/elected official, the Town will pay the reasonable fees and disbursements of such counsel.

**RESPONSIBILITIES**

16. It is the responsibility of employees/ elected officials to:

- a) Participate fully in any investigation;
- b) Act honestly and in good faith;
- c) Act within the scope of his or her duties.

17. It is the additional responsibility of Council to:

- a) Review and affirm or consider approval of amendments to this policy as presented at least once per term.

**POLICY REVIEW**

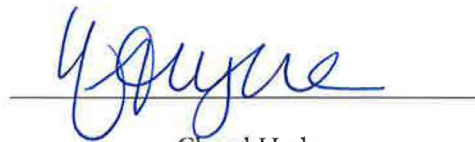
18. This policy will be reviewed by Council on or before July 30, 2025.

**REPEALS POLICY:** Employment Related Legal Proceedings 291-2011

**AUTHORIZATION:**



John Borrowman  
Mayor



Cheryl Hyde  
Municipal Clerk

**REVISION HISTORY**

Action	Date	Council Motion	Notes
Approved	2017-06-27	208-2017	
Amended	2021-07-06	176-2021	Change policy number from HR-003 to EX-009

Policy approved by:  