

# Indemnification Bylaw

## RECOMMENDATION:

*That Committee of Council recommend to Council that City of Port Coquitlam Indemnification Bylaw, 2023, No. 4307, be given first three readings.*

## **PREVIOUS COUNCIL/COMMITTEE ACTION**

The City's existing Indemnification Bylaw was adopted in 1998.

## **REPORT SUMMARY**

This report recommends the modernisation of the City's Indemnification Bylaw to include certain groups of volunteers and employees that are presently excluded from the Bylaw, and to update the language and references to outdated legislation. The proposed Bylaw provides protection from legal liability for officers, employees, volunteers, and members of Council and City committees (together referred to as "municipal officials"), both current and former, in the stated circumstances, as long as the acts are done in "good faith" and in "performance of their duty." The Bylaw also repeals the City's existing Indemnification Bylaw No. 3185, 1998.

## **BACKGROUND**

The City's existing Indemnification Bylaw was adopted in 1998 and serves to indemnify officers, employees and members of Council from damage claims that arise out of the performance of their duties. The current Bylaw was adopted pursuant to section 236 of the *Municipal Act* (1997) which has since been replaced by section 740 of the *Local Government Act*. The current legislation expands the scope of indemnification permitted by Bylaw, particularly as it enables indemnification of volunteers as well as former members of City Council and former City employees and officers. The previous legislation only permitted indemnification of current employees, officers and members of Council.

## **DISCUSSION**

Section 740 of the *Local Government Act* provides municipalities with the authority to pass bylaws to protect municipal officials from any legal action or prosecution brought against them in the honest exercise or intended exercise or performance of their municipal duties and functions. In general terms, an indemnification bylaw provides that legal fees, as well as costs, fines and awards of damages incurred or made against a municipal official will be paid by the local government. It also ensures consistency in the determination of when indemnification is appropriate. The protection provided by an indemnification bylaw allows municipal officials to act without the threat of fines or penalties due to their actions when representing the best interests of the municipality – and provides them with the assurance that they will not suffer negative financial consequences from the well-intentioned exercise of their duties.

As a limit to indemnification, municipal officials face personal liability where they are found guilty of dishonesty, gross negligence or malicious or wilful misconduct. In those circumstances, the

## Indemnification Bylaw

City may seek indemnification from these officers for claims brought against the City.

“Municipal Officials” is more broadly defined by Section 738(1) of the *Local Government Act*, and includes:


- a member of a council
- a member of a municipal committee (e.g.: PoCo Community Foundation; Equity, Diversity and Inclusion Roundtable; Mayor’s Citizen Advisory Roundtable; etc.)
- a member of an advisory planning commission
- a member of a board of variance
- an officer or employee of a municipality (includes firefighters)
- an election official
- a volunteer firefighter or a special constable
- a volunteer who participates in the delivery of services by a municipality, under the supervision of an officer or employee of the municipality

The indemnification provisions in the City’s current Bylaw are narrower than those in place in most lower mainland municipalities. The proposed Indemnification Bylaw No. 4307 reflects the changes in the current legislation and aligns the City’s Bylaw with most other municipalities.

### **FINANCIAL IMPLICATIONS**

None. The City is insured through the Municipal Insurance Association of B.C. (MIABC) to cover the costs of any claims that may be brought against a municipal official in relation to the exercise of powers or the performance of duties or functions for or on behalf of the City.

### **OPTIONS** (✓= Staff Recommendation)

	#	Description
	1	Recommend Council give first three readings to the Bylaw.
	2	Refer the Bylaw back to staff with a request for further information (to be specified) and/or amend the Bylaw.
	3	Decline to forward to Council for first three readings of the Bylaw. The City’s existing Indemnification Bylaw No. 3185, 1998 will remain in force.

### **ATTACHMENTS**

Attachment 1: Draft Indemnification Bylaw No. 4307, 2023.

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