



**INDEMNIFICATION FOR OFFICERS, EMPLOYEES AND MEMBERS OF
COUNCIL
BYLAW NO. 87-196**

This consolidation is a copy of a bylaw consolidated under the authority of section 139 of the *Community Charter*. (Consolidated on October 26, 2023 up to Bylaw No.23-087)

This bylaw is printed under and by authority of the Corporate Administrator of the Corporation of the City of Victoria.

NO. 87-196

BYLAW OF THE CITY OF VICTORIA

(Consolidated to include Bylaw No. 14-070, 23-087)

to indemnify officers, employees and members of Council against claims for damages.

Pursuant to the provisions of Section 262 of the Municipal Act, R.S.B.C. 1979, c.290, the Municipal Council of the Corporation of the City of Victoria enacts as follows:

1. This bylaw may be cited as the "INDEMNIFICATION FOR OFFICERS, EMPLOYEES AND MEMBERS OF COUNCIL BYLAW."
2. The City shall indemnify its officers, employees and members of its Council against any claim for damages against any officer, employee or member of its Council arising out of the performance of his or her duties and, in addition, pay legal costs awarded against any officer, employee or member of its Council arising from the claim.
3. The City's Solicitor may undertake the defence of an officer, employee or member of its Council against any such claim for damages and may pay all disbursements in connection with such defence from the funds of the City.
4. Where the City Solicitor has refused to defend any officer, employee or member of its Council in any such claim for damages, the City shall pay the solicitor and client costs incurred by any officer, employee or member of its Council where the City Solicitor has certified that the amount of such solicitor and client costs is reasonable in the circumstances.
5. The City shall not seek indemnity against any officer, employee or member of its Council where the action of such officer, employee or member of its Council results in a claim for damages against the City by a third party.
6. Except the provisions of Section 3, the provisions of this bylaw shall not apply in respect of any claims resulting from the gross negligence of the officer, employee or member of its Council or where, in relation to any action that gave rise to any claim against an officer or employee, the officer or employee wilfully acted contrary to
 - (a) the terms of his or employment; or
 - (b) an order given to him or her by a person in authority over him or her.
7. Notwithstanding the provisions of the preceding sections, unless the Council otherwise resolves, no employee or member of its Council shall have a claim for indemnification pursuant to this bylaw unless the officer, employee or a member of its Council

- (a) forthwith informs the City Solicitor in writing of any claim, Code of Conduct Bylaw complaint, or threat of legal action made against him or her in respect of the matter in issue;
- (b) promptly and from time to time supplies the City Solicitor or any solicitor retained by the City or its insurer with all information relating to the claim, Code of Conduct Bylaw complaint, or action, requested by such solicitor;
- (c) if required by the City Solicitor, agrees to be defended by the City Solicitor, agrees to be defended by the City Solicitor or by a solicitor nominated by the City or its insurer; and
- (d) fully cooperates with the City Solicitor and any other solicitor nominated by the City or its insurer and withholds no material information from any such solicitor.

8. (1) Council may, in its sole discretion, authorize the City to pay the solicitor and client costs incurred by an officer, employee, or member of Council for defending against criminal or regulatory charges arising out of good faith performance of the person's duties.

14-070

- (2) Without limiting its discretion, in considering whether or not to authorize payment under subsection (1), Council may consider any factor it believes is relevant, including the following:
 - (a) nature of the alleged offence;
 - (b) conduct which gave rise to the charges and its relationship with the officer's, employee's or Council member's assigned duties;
 - (c) whether the person was performing his or her duties in a manner authorized by and consistent with the City's bylaws, collective agreement, policies or operating procedures;
 - (d) whether the person had the appropriate equipment or training to perform his or her duties;
 - (e) person's past performance; and
 - (f) whether it is in the public interest for the City to pay the legal costs of the person under the circumstances.
- (3) Council may, as part of any authorization under subsection (1), impose any terms or conditions, including:
 - (a) requirement to enter into a retainer agreement with legal counsel in the form acceptable to the City Solicitor;

- (b) requirement to co-operate with the City in verifying reasonableness of the fees, including co-operation in any proceedings under the *Legal Profession Act* to review any legal bills;
- (c) limit on the amount of fees to be reimbursed by the City;
- (d) requirement to repay legal fees if the employee is convicted of the offence; and
- (e) any other terms and conditions that Council considers appropriate in the circumstances.

8A. (1) The City shall indemnify members of its Council for their solicitor and client costs for responding to complaints made pursuant to the Code of Conduct Bylaw.

23-087

(2) The indemnity in subsection (1) is subject to the following terms and conditions:

- (a) The member of Council must ensure that their legal fees are reasonable and proportionate to the nature of the complaint; and
- (b) The member of Council must co-operate with the City in verifying reasonableness of the fees, including co-operation in any proceedings under the *Legal Profession Act* to review any legal bills.

(3) If a complaint against a member of Council is substantiated in accordance with the process established under the Code of Conduct Bylaw, the Council member must, subject to subsections (4) and (5), repay to the City all the legal expenses paid pursuant to subsection (1).

(4) If the complaint against a member of Council is only partially substantiated, subsection (3) applies only to the portion of the fees related to the substantiated part of the complaint or, if fees cannot be easily attributed to that part of the complaint, a share of the fees that is proportionate to the substantiated part of the complaint taking into account seriousness of the different parts of the complaint and the amount of effort related to each of the parts.

(5) Subsection (3) does not apply in relation to a complaint, or part of the complaint as the case may be, if the investigator issues a report pursuant to section 19(4)(b) of the Code of Conduct Bylaw, unless Council rejects that recommendation and imposes a sanction under section 21 of that bylaw in relation to the complaint or part of the complaint.

9. (1) Nothing in this bylaw shall be interpreted to entitle an officer, employee, or member of Council to reimbursement for legal defence costs in relation to criminal or regulatory charges except as authorized by Council under section 8.

14-070

- (2) The City shall not indemnify an officer, employee or member of Council for any fine or penalty that is imposed as a result of that person's conviction for any offence that is not a strict or absolute liability offence.

Passed and received third reading by the Municipal Council the 28th day of September, 1987.

Reconsidered and adopted by the Municipal Council the 8th day of October, 1987.

"C.F.G. CRISP"
CITY CLERK

"G. BREWIN"
MAYOR