



BYLAW 3539

Indemnification Bylaw

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WHEREAS sections 187 of the *Community Charter* and 287.2 (2) of the *Local Government Act* authorizes Council, by bylaw, to provide for the indemnification of municipal officials;

NOW THEREFORE the council of The Corporation of the District of North Cowichan enacts as follows:

Definitions

1 In the Bylaw:

“**Council**” means the Council of the Municipality;

“**Municipality**” means the Corporation of the District of North Cowichan;

“**municipal official**” means

- (a) a current or former member of Council,
- (b) a current or former employee or officer of the Municipality, or
- (c) a person who is, or was, a person referred to in section 287 (1) of the *Local Government Act* acting for, or on behalf of, the Municipality.

Indemnification

2 The Municipality will indemnify its municipal officials in respect of all amounts required or incurred

- (a) to defend an action, or prosecution brought against the municipal official, in connection with the exercise, or intended exercise, of the municipal official’s powers, or the performance, or intended performance, of the municipal official’s duties or functions,
- (b) to satisfy a judgment, award or penalty imposed in an action or prosecution, referred to in paragraph (a), or

- (c) in relation to an inquiry under the *Public Inquiry Act*, or to another proceeding that involves the administration of the Municipality or the conduct of its business.

Exceptions

- 3** Section 2 does not apply where a court of competent jurisdiction finds a municipal official guilty of dishonesty, gross negligence, or malicious or willful misconduct.

Process

- 4** Where indemnity is or may be claimed under this Bylaw, the municipal official must do all of the following:
 - (a) promptly, after being served with a document initiating an action or prosecution, deliver a copy of the said document to the Director of Corporate Services;
 - (b) not admit or assume liability, enter into a settlement, or enter a guilty plea except with the approval of Council;
 - (c) consent in writing to the Municipality having sole discretion to appoint and instruct legal counsel, conduct all necessary investigations, negotiate and settle the action or prosecution;
 - (d) co-operate with the Municipality and appointed legal counsel to secure information, evidence and witnesses, and defend the action or prosecution.

Recovery

- 5** The Municipality will not seek recovery of its costs against a municipal official in respect of any action which results in a judgment for damages against the Municipality, provided a court has not found the municipal official guilty of dishonesty, gross negligence, or malicious or willful misconduct.

Severability

- 6** If any provision of this bylaw is, for any reason, found invalid by a court of competent jurisdiction, the provision must be severed and the remainder of the bylaw left enforceable and in effect.

READ a first time on May 21, 2014
READ a second time on June 4, 2014
READ a third time on June 4, 2014
ADOPTED on June 18, 2014

M. O. Ruttan, Corporate Officer

J. W. Lefebure, Mayor