

BYLAW NO. 3951, 2008

A Bylaw to provide for the indemnification of City Council members of the City of Coquitlam

WHEREAS Council may, by bylaw, provide for the indemnification of municipal officials pursuant to the provisions of the *Local Government Act*, R.S.B.C. 1996, c. 323 (the "*Local Government Act*"), including section 287 thereof;

WHEREAS The Council of the City of Coquitlam deems it expedient that all municipal officials be afforded protection in the exercise of their powers and the performance of their duties on behalf of the City of Coquitlam;

NOW THEREFORE, the Council of the City of Coquitlam, in open meeting lawfully assembled, ENACTS AS FOLLOWS:

1. Name of Bylaw

This Bylaw may be cited for all purposes as the "City of Coquitlam Council Indemnification Bylaw No. 3951, 2008."

2. Definitions

In this Bylaw, unless the context otherwise requires, the following words have the following meanings:

CITY

means the City of Coquitlam

COUNCIL

means the Council of the City of Coquitlam

INDEMNIFY

means to pay an amount or amounts required or incurred:

- (a) to defend an action or prosecution brought against a person in connection with the exercise or intended exercise of the person's powers or the performance or intended performance of the person's duties or functions, including all legal costs associated with the defence to the action or prosecution;
- (b) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (a); or

- (c) to represent or defend a person in an inquiry brought in relation to the *Public Inquiry Act*, or to another proceeding, that involves the administration of the City or the conduct of City business,

but does not extend to a fine that is imposed as a result of a conviction that is not a strict or absolute liability offence.

MUNICIPAL OFFICIAL

means a person defined as such in Section 287.2 of the *Local Government Act*.

3. Indemnification

The City shall indemnify a Municipal Official, provided that and so long as, the Municipal Official:

- (a) does not admit or assume liability, enter into a settlement, or enter any plea of guilt, except with approval of Council given by resolution;
- (b) has within forty-eight (48) hours of being served with any process initiating or advancing a step in an inquiry, action, application, prosecution, or other judicial proceeding, delivered the same to the City's Corporate Officer;
- (c) consents in writing to the City having the sole discretion to appoint and instruct counsel, to conduct all necessary investigations, to have full conduct of the defence of the claim, to enter into settlement negotiations and, where appropriate, to settle the claim, action, or prosecution;
- (d) assists the City and defence counsel in his or her defence, including by giving truthful evidence, by securing information, evidence and witnesses, and by cooperating with the City and defence counsel in the defence of the action or prosecution.

4. Non-Indemnified Actions

Where a Court makes a finding in an inquiry, action or prosecution that the Municipal Official who has been indemnified, or is seeking indemnification under this bylaw, has:

- (a) exercised powers or acted in the performance of functions or matters not within the Municipal Official's powers, duties or functions;
- (b) been dishonest or grossly negligent, or engaged in malicious or willful misconduct;

- (c) acted contrary to the terms and conditions of employment or contrary to an order given by a person in authority over that municipal official;
- (d) libeled or slandered a person or persons; or
- (e) not met the duty to respect confidentiality requirements pursuant to Section 117 of the *Community Charter*,

the duty to indemnify shall cease and the Municipal Official must reimburse the City for all amounts expended by the City in the conduct of his or her representation or defence, and the City shall not be obligated to pay any judgment or award made in respect of, or penalty imposed on, the Municipal Official.

5. Limitation

The provisions of this Bylaw are subject to any rights, exceptions, limitations, terms or conditions contained in section 287.2 of the *Local Government Act*.

6. Severability

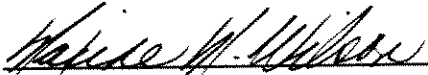
If any portion of this bylaw is declared invalid by a court of competent jurisdiction, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

READ A FIRST TIME this 21st day of July, 2008.

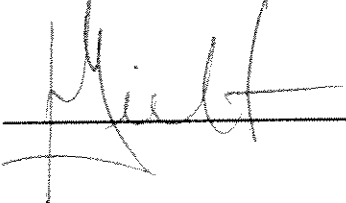
READ A SECOND TIME this 21st day of July, 2008.

READ A THIRD TIME this 21st day of July, 2008

GIVEN FOURTH AND FINAL READING and the Seal of the Corporation affixed this 28th day of July, 2008.



MAYOR



CLERK