

THE CORPORATION OF THE CITY OF NORTH VANCOUVER

BYLAW NO. 8845

**A Bylaw to provide for protection, defence or indemnification
of a Municipal Official**

The Council of The Corporation of the City of North Vancouver, in open meeting assembled, enacts as follows:

1. This Bylaw shall be known and cited for all purposes as **“Indemnification Against Proceedings Bylaw, 2022, No. 8845”**.
2. In this Bylaw unless the context otherwise requires:

“City” means The Corporation of the City of North Vancouver.

“Indemnification” means the payment of 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;
- (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*, S.B.C. 2007, c. 9, as amended, or to another Proceeding, that involves the administration of the City or the conduct of the City’s business,

including, without limitation any damages, awards, fines, penalties, Reasonable Legal Costs and reasonable out-of-pocket costs, but excluding any fine imposed as a result of a Municipal Official’s conviction for an offence that is not a strict or absolute liability offence.

“Municipal Official” means:

- (a) a current or former council member;
- (b) a current or former municipal officer or employee; and
- (c) any person who is or was a person referred to in Section 738(1) (e), (f), (h), (i), (m), (n), (o), (p), (q) and (r) of the *Local Government Act*, R.S.B.C. 2015, c. 1, as amended,

but only in relation to the exercise of powers or performance of duties or functions for or on behalf of the City.

“Proceeding” means a proceeding as defined in the *Supreme Court Civil Rules*, B.C. Reg. 168/2009, as amended, and includes a claim, hearing, application, investigation, or review before or by a court, tribunal or other investigating or regulatory agency or body.

“Reasonable Legal Costs” means the reasonable costs, including disbursements, incurred by a Municipal Official or by the City in seeking, retaining and engaging legal counsel in respect of a matter for which Indemnification is provided under this Bylaw, as determined by the City Solicitor.

3. Subject to the provisions of this Bylaw, the City will provide Indemnification for any Municipal Official against any claim, action, prosecution, inquiry, complaint, or other Proceeding of any nature brought against such Municipal Official as a result of or relating to the performance or intended performance of such Municipal Official’s duties, whether arising during or after their term of office or employment with or service to the City, or secondment to Lonsdale Energy Corporation, including without limitation any damages, awards, fines, penalties, Reasonable Legal Costs and reasonable out-of-pocket costs that may be incurred by the Municipal Official.
4. The City will not seek indemnity against any Municipal Official where any action of that Municipal Official results in a claim for damages against the City, unless a court makes a finding in the action that the Municipal Official has been guilty of dishonesty, gross negligence or malicious or wilful misconduct.
5. (a) Where Indemnification under this Bylaw is or may be claimed by any Municipal Official, such Municipal Official shall immediately, upon receipt thereof, forward to the City every Statement of Claim, letter, document, or advice relating to an actual or potential claim against such Municipal Official in respect of which Indemnification is or may be claimed under this Bylaw.

(b) Where Indemnification under this Bylaw is or may be claimed by a Municipal Official, such Municipal Official shall not:
 - (i) voluntarily assume any liability or settle any claim except at the Municipal Official’s own cost and no indemnification will be paid in relation thereto; or
 - (ii) interfere with the City in any negotiation settlement or in any legal process with respect to such claim;and that whenever requested by the City such Municipal Official shall:
 - (iii) aid in securing of information and evidence and the attendance of witnesses and shall, where required by the City, give evidence or statements in writing or orally; and
 - (iv) co-operate with the City in the defence of any action or Proceeding or in the prosecution of any appeal taken by the City on behalf of the Municipal Official.(c) Where Indemnification under this Bylaw is or may be claimed by a Municipal Official, such Municipal Official shall consent, in writing or otherwise, that the City shall have complete discretion to defend, manage, settle, compromise or otherwise resolve the action, prosecution or Proceeding, including by:
 - (i) appointment and instruction of legal counsel;
 - (ii) assumption of the defence or management of any action, prosecution or Proceeding;

- (iii) conduct of all necessary investigations and reviews;
 - (iv) compromise or settlement of any action, prosecution or Proceeding; and
 - (v) payment or satisfaction of any judgment, award or penalty imposed in connection with the action, prosecution or Proceeding.
6. Compliance by any Municipal Official with the provisions of Section 5 of this Bylaw is a condition precedent to the City's obligation to provide Indemnification for such Municipal Official as provided in this Bylaw.
7. Where Indemnification under this Bylaw has been claimed by a Municipal Official the City will keep the Municipal Official apprised of the status of any negotiation settlement or legal process with respect to the action against the Municipal Official.
8. The provisions of this Bylaw shall not apply to:
- (a) any fine imposed as a result of a Municipal Official's conviction for an offence that is not a strict or absolute liability offence;
 - (b) the defence of a Municipal Official arising from a criminal proceeding;
 - (c) a matter, action or Proceeding where damages are claimed by the City against a Municipal Official;
 - (d) a matter, action or Proceeding where damages are claimed by a Municipal Official against the City;
 - (e) the provision or receipt of employment law or labour relations advice; or
 - (f) a motion of censure by City Council.
9. Where a court, tribunal or other investigating or regulatory agency or body, makes a finding in an action, prosecution or Proceeding that a Municipal Official who has been indemnified, or is seeking Indemnification under this Bylaw, has:
- (a) been guilty of dishonesty, gross negligence, malicious or wilful misconduct;
 - (b) wilfully acted contrary to the terms of their employment;
 - (c) wilfully acted contrary to the lawful direction or order given by a person in authority over that Municipal Official;
 - (d) not acted in the honest performance of their duties;
 - (e) libeled or slandered a person or persons;
 - (f) not met the duty to respect confidentiality under section 117 of the *Community Charter*, S.B.C. 2003 c. 26, or any applicable enactment;
 - (g) has been disqualified from holding office; or

(h) been guilty of an offence that is not a strict or absolute liability offence,

then the City's obligation to provide Indemnification under Section 3 of this Bylaw shall cease and the Municipal Official shall reimburse the City for all amounts expended by the City in the conduct of his, her or their representation or defence, and the City shall not be obligated to pay any judgement, award or penalty imposed in such action, prosecution or Proceeding.

10. "Indemnification Against Proceedings Bylaw, 2000, No. 7239" and all amendments thereto are hereby repealed.
11. If a portion of this Bylaw is found invalid by a court, it will be severed and the remainder of the Bylaw will remain in effect.

READ a first time on the 7th day of February,
2022.

READ a second time on the 7th day of February,
2022.

READ a third time on the 7th day of February,
2022.

ADOPTED on the 14th day of February, 2022.

"Linda C. Buchanan"

MAYOR

"Karla D. Graham"

CORPORATE OFFICER