

CITY OF PRINCE GEORGE
BYLAW NO. 8522

A Bylaw to provide for the indemnification of municipal officials.

WHEREAS section 287.2 of the *Local Government Act* authorizes the City to enact a bylaw to provide indemnity to municipal officers, employees and elected officials acting reasonably and in good faith in performing the duties and functions of their positions with the City;

NOW THEREFORE the Council of the City of Prince George in open meeting assembled **ENACTS AS FOLLOWS:**

1. Interpretation

In this bylaw:

- (a) **“City”** means the City of Prince George;
- (b) **“City Manager”** means the City Manager (chief administrative officer) appointed by Council pursuant to the City of Prince George Officer Positions and Delegation of Authority Bylaw No. 8340, 2011, as amended or replaced from time to time;
- (c) **“Council”** means the municipal Council for the City;
- (d) **“indemnify”** means to pay the amounts required or incurred:
 - (i) 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;
 - (ii) to satisfy a judgment, award or penalty imposed in an action or prosecution referred to in paragraph (i); or
 - (iii) in relation to an inquiry under 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 for an offence, other than a strict or absolute liability offence;
- (e) **“municipal official”** means:
 - (i) a current or former member of Council;

- (ii) a current or former employee or officer of the City; or
 - (iii) a person who is or was a person referred to in section 287(1) of the *Local Government Act*, but only in relation to the exercise of powers or performance of duties or functions for or on behalf of the City; but does not include an independent service provider, professional advisor or contractor engaged by the City from time to time on a fee for service basis; and
- (f) **“willful misconduct”** in relation to a municipal official, includes, without limitation, willfully acting contrary to the terms of his or her employment or to a lawful direction or order of a superior.

2. Indemnification

The City will indemnify a municipal official against an action or prosecution brought against the municipal official, including, for certainty, reasonable legal costs incurred in relation to the proceeding, if the person to be indemnified:

- (i) promptly after being served with a document initiating an action or prosecution, delivers a copy of the same to the City Manager;
- (ii) does not admit or assume liability, enter into a settlement, or enter a guilty plea except with the approval of Council;
- (iii) consents in writing to the City having sole discretion to appoint and instruct legal counsel, conduct all necessary investigations, and to negotiate and settle the action or prosecution, provided that if the person believes they have an interest that is in conflict with the interest of the City the person is entitled to independent legal counsel; and
- (iv) assists in providing and securing information, evidence, and witnesses, and cooperates with the City and their legal counsel in the defence of the action or prosecution.

3. Indemnity against a Municipal Official

Council will not seek indemnity against a municipal official in respect of any action of the municipal official which results in a claim for damages against the City, except where a court of competent jurisdiction makes a finding that the person has been guilty of dishonesty, gross negligence, or malicious or willful misconduct.

4. Indemnification Process

Upon receipt of any documents under section 2(i), the City Manager or the Corporate Officer will make a determination as to whether the municipal official is entitled to indemnification pursuant to this bylaw, and in order to make such determination, the City Manager or Corporate Officer may request additional information from the municipal official, which must be provided by the municipal official to the best of their ability.

5. Specific Case

Nothing in this bylaw precludes a municipal official from applying for indemnification pursuant to Council's jurisdiction under section 287.2 (2)(b) of the *Local Government Act* for a resolution indemnifying the municipal official in a specific case.

6. Application of Bylaw

This bylaw applies to an action or prosecution commenced against a municipal official after adoption of this bylaw.

7. Repeal

City of Prince George Indemnification Bylaw No. 5077, 1990, as amended, is hereby repealed.

8. Citation

This bylaw may be cited for all purposes as "City of Prince George Indemnification Bylaw No. 8522, 2013".

READ A FIRST TIME THIS THE **22nd** DAY OF **JULY** , **2013**.

READ A SECOND TIME THIS THE **22nd** DAY OF **JULY** , **2013**.

READ A THIRD TIME THIS THE **22nd** DAY OF **JULY** , **2013**.

All three readings passed by a **unanimous** decision of Members of City Council present and eligible to vote.

ADOPTED THIS THE **19th** DAY OF **AUGUST** , **2013**, BY A **UNANIMOUS** DECISION OF ALL MEMBERS OF CITY COUNCIL PRESENT AND ELIGIBLE TO VOTE.



MAYOR



CORPORATE OFFICER