

BY-LAW NO. 11339

A By-law to provide for the indemnification of officers, employees, elected officials and members and employees of certain boards, against claims arising out of the performance of their duties

WHEREAS section 180 of the Vancouver Charter authorizes Council to enact a by-law to provide indemnity to officers and employees of the City of Vancouver, Council members and members and employees of certain boards, against claims arising out of the performance of their duties, to the extent set out in the by-law;

THE COUNCIL OF THE CITY OF VANCOUVER, in public meeting, enacts as follows:

Interpretation

1. In this by-law:

“City” means the City of Vancouver.

“claim” means:

- (a) a claim for damages or other legal remedy; or
- (b) an oral or written claim for compensation or other legal remedy;

against a person, arising out of and in the course of employment, or the exercise of duties, powers or functions as an official, Board or Council member.

“damages” means damages, including prejudgment interest, due or awarded in payment for actual injury or economic loss and does not include punitive, aggravated or exemplary damages, fines or penalties.

“indemnify” means, at the sole discretion of the City:

- (a) to defend , settle or pay a claim; or
- (b) to pay or satisfy a judgment or an award of damages imposed in connection with a claim.

“officer” means a person who is the holder of an office created by the *Vancouver Charter*.

“person” means a person listed in section 2.1 of this By-law.

Indemnification

2.1 Subject to sections 2.2 and 2.3 of this By-law, the City will indemnify persons who are current or former:

- a) City Council members;
- b) members of the Board of Parks and Recreation;
- c) members and employees of the Vancouver Library Board;
- d) members of the Vancouver Police Board;
- e) employees of the Vancouver Police Board who are not appointed under the *Police Act*; and
- f) officers and employees of the City, including those assigned to the Board of Parks and Recreation.

2.2 Subject to section 2.3 of this By-law, the City will indemnify a person referred to in section 2.1 of this By-law, if the person to be indemnified:

- a) promptly after being served with a claim, delivers a copy of the same to the City Clerk;
- b) does not admit or assume fault in connection with the claim, or enter into any settlement or resolution of the claim, without the prior approval of the Director of Legal Services;
- c) consents in writing to the City having complete discretion to resolve the claim, including resolution by:
 - i) appointment and instruction of legal counsel,
 - ii) assumption of the defence of the claim,
 - iii) payment of legal costs and expenses,
 - iv) conduct of all necessary investigations,
 - v) compromise or settlement of the claim, or
 - vi) payment or satisfaction of a judgment or an award of damages imposed in connection with the claim;
- d) cooperates fully in the defence of the claim, to the satisfaction of the Director of Legal Services; and
- e) provides statements and discloses documents upon request, to the satisfaction of the Director of Legal Services.

2.3 The City will not indemnify a person pursuant to this By-law if:

- a) the claim is for a fine imposed on a person upon conviction for a criminal offence; or
- b) the person, in relation to the conduct that is the subject matter of the claim:
 - i) is guilty of dishonesty, gross negligence, malicious or wilful misconduct, or a criminal act,
 - ii) has wilfully acted contrary to the terms of his employment,
 - iii) has willfully acted contrary to a lawful direction or order of a supervisor, or
 - iv) has not acted in the honest performance of their duties.

Indemnity over

3. The City will not seek indemnity against a person in respect of any conduct by such person which results in a claim, unless a court, tribunal or arbitrator first determines that the person:

- a) is guilty of dishonesty, gross negligence, malicious or wilful misconduct, or a criminal act;
- b) has willfully acted contrary to the terms of his employment;
- c) has willfully acted contrary to a lawful direction or order of a supervisor; or
- d) has not acted in the honest performance of their duties.

Repeal

4. Council repeals By-law No. 6579.

Citation

5. The name of this By-law, for citation, is the "Indemnification of Employees By-law".

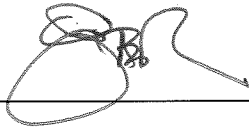
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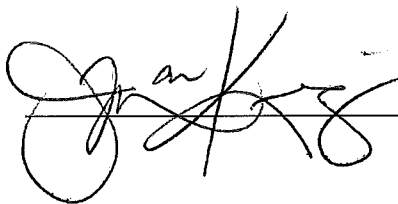
6. A decision by a court that any part of this By-law is illegal, void, or unenforceable severs that part from this By-law, and is not to affect the balance of this By-law.

Force and effect

7. This By-law is to come into force and take effect on the date of its enactment.

ENACTED by Council this 15th day of September, 2015



Mayor

City Clerk