

CITY OF PORT ALBERNI BYLAW NO. 5061

A BYLAW TO ESTABLISH OFFICER POSITIONS AND PROVIDE INDEMNIFICATION FOR MUNICIPAL OFFICIALS

WHEREAS the City of Port Alberni must by bylaw, under section 146 of the *Community Charter*, establish Officer positions in relation to the duties under sections 148 and 149 of the *Community Charter*;

AND WHEREAS the City of Port Alberni may by bylaw, under section 146 of the *Community Charter*, establish an Officer position in relation to the duties under section 147 of the *Community Charter*;

AND WHEREAS Council may, by bylaw, pursuant to section 187 of the *Community Charter* and Section 740 of the *Local Government Act*, provide that the City of Port Alberni will indemnify its municipal officials;

NOW THEREFORE, the Council of the City of Port Alberni in open meeting assembled enacts as follows:

Part 1 | INTERPRETATION

Citation

- 1.1 This Bylaw may be cited for all purposes as "City of Port Alberni Officers and Indemnification Bylaw No. 5061, 2023".

Repeal

- 1.2 "City of Port Alberni Officers Bylaw No. 4428" is hereby repealed.

Part 2 | OFFICER POSITIONS

- 2.1 The following positions are hereby established as officer positions of the Municipality:
 - a. Chief Administrative Officer
 - b. Director of Corporate Services
 - c. Director of Finance
- 2.2 Nothing in this bylaw shall prevent the appointment of the same person to two or more offices.

Part 3 | OFFICER DUTIES AND RESPONSIBILITIES

- 3.1 The powers, duties and responsibilities of the Chief Administrative Officer are as set in section 147 of the *Community Charter* and as assigned in the Chief Administrative Officer job description.
- 3.2 The powers, duties and responsibilities of the Director of Corporate Services are as set in section 148 of the *Community Charter* and as assigned in the Director of Corporate Services job description.
- 3.3 The powers, duties and responsibilities of the Director of Finance are as set in section 149 of the *Community Charter* and as assigned in the Director of Financial Services job description.

Part 4 | INDEMNIFICATION

- 4.1 "Municipal Official" means:
 - a. a current or former council member of the Municipality;
 - b. a current or former municipal officer or employee of the Municipality; and
 - c. a person who is, or was, a person referred to in section 738(1) of the *Local Government Act*, acting for or on behalf of the Municipality.
- 4.2 The Municipality will indemnify its Municipal Officials in respect of all amounts required or incurred:
 - a. to defend an action or prosecution brought against a Municipal Official 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*, or to another proceeding, that involves the administration of the Municipality or the conduct of the Municipality's business.

- 4.3 The provisions of section 4.2 above do not apply in any case where a court of competent jurisdiction finds a Municipal Official guilty of:
- a. gross negligence;
 - b. dishonesty; or
 - c. willful misconduct.
- 4.4 The provisions of section 4.2 (c) above do not apply to workplace investigations or proceedings under any Council code of conduct.
- 4.5 The Municipality will not seek recovery of costs against a Municipal Official where the actions of those Municipal Officials result 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.
- 4.5 Where indemnity under this bylaw is or may be claimed by any Municipal Official, they shall immediately, upon receipt thereof, forward to the Chief Administrative Officer of the Municipality every statement of claim, writ, letter, document or complaint.
- 4.6 Where indemnity under this bylaw is or may be claimed by a Municipal Official, they shall not:
- a. voluntarily admit or assume liability, enter a guilty plea or settle any action, prosecution, or proceeding except with the approval of Council; or,
 - b. interfere with the Municipality in any negotiation, settlement or any legal proceedings with respect to an action, prosecution or proceeding;
- And that whenever requested by the Municipality such Municipal Officials shall:
- c. aid in securing of information, evidence, and witnesses and shall themselves, where required by the Municipality give evidence;
 - d. consent in writing to the Municipality having sole discretion to appoint and instruct legal counsel and to conduct all necessary investigations and to negotiate and settle an action, prosecution or proceeding; and
 - e. cooperate with the Municipality and appointed legal counsel in the defense of any action, prosecution or proceeding.
- 4.7 Compliance by Municipal Officials with the provisions of section 4(6) above constitutes a condition precedent to the Municipality's obligation to indemnify Municipal Officials as provided in this bylaw.

Part 5 | OATH OF OFFICE

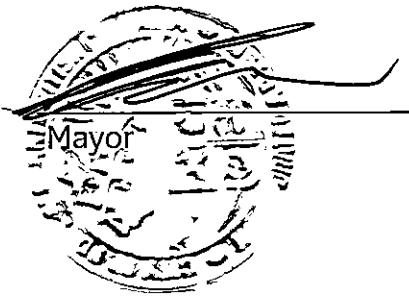
5.1 The oath of office as set out in Schedule 'A' attached hereto and forming part of this Bylaw, is hereby adopted as the oath of office for officers of the City of Port Alberni.

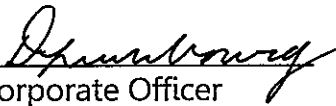
READ A FIRST TIME this 11th day of April, 2023.

READ A SECOND TIME this 11th day of April, 2023.

READ A THIRD TIME this 11th day of April, 2023.

ADOPTED this 24th day of April, 2023.




Corporate Officer

SCHEDULE 'A'
OATH OF OFFICE

I, [insert name], having been appointed to the Office of [insert name of Office] for the City of Port Alberni do hereby promise and affirm:

- a. I will faithfully, honestly and impartially, to the best of my knowledge and ability, execute the powers, duties and functions of my Office;
- b. I will treat all matters and information that comes to my attention, as a result of my Office, in confidence;
- c. I have not received, nor will I receive or accept any payment or reward, or promise of either, in return for the exercise of my powers, duties and functions, other than as permitted by the Municipality.
- d. I will not allow my personal interest to conflict with the duties of my Office; and
- e. I will comply with all policies and directives of the Municipality and comply with all laws.