

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

OFFICERS, EMPLOYEES AND MEMBERS OF COUNCIL
INDEMNIFICATION AUTHORIZATION BYLAW, 1988, NO. 1878

CONSOLIDATED FOR CONVENIENCE

FEBRUARY 2003

Consolidated for convenience. In case of discrepancy,
the original Bylaw and amending Bylaws must be consulted.

Consolidates Amendments authorized by:

OFFICERS, EMPLOYEES AND MEMBERS OF COUNCIL
INDEMNIFICATION AUTHORIZATION BYLAW, 1988, NO. 1878,
AMENDMENT BYLAWS
(No. 1), 1989, No. 1908
(No. 2), 1989, No. 1931

The following Amendment Bylaw, which deals solely with an Action commenced by
Birch Builders Ltd. and 351994 B.C. Ltd., is not included in this consolidation:
(No. 3), 1990, No. 1951

CORPORATION OF THE TOWNSHIP OF ESQUIMALT

BYLAW NO. 1878 - CONSOLIDATION

A Bylaw to indemnify Officers, Employees and Members of Council against claims for damages.

WHEREAS Section 262, subsection (2) of the "Municipal Act" provides that a Council may by bylaw indemnify its officers, employees and members of Council against a claim for damages against an officer, employee or member of Council arising out of the performance of his duties and, in addition, pay legal costs incurred in a court proceeding arising out of the claim;

AND WHEREAS it is in the interest of a responsive and efficient public service that officer, employees and members of Council be protected within the limits prescribed herein;

NOW, THEREFORE, THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ESQUIMALT, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as the "OFFICERS, EMPLOYEES AND MEMBERS OF COUNCIL INDEMNIFICATION AUTHORIZATION BYLAW, 1988, NO. 1878."

2. In this Bylaw,

"Employee" is any person engaged to carry on the good government of the Municipality and the provisions of the "Municipal Act" and includes employees of the Esquimalt Municipal Police Board; **[Bylaw No. 1908]**

"Municipal Public Officer" means:

- (a) a member of
 - (i) any civic commission under Division (2) of Part 17 of the "Municipal Act" or
 - (ii) a library board under the "Library Act",
- (b) a member of an advisory planning commission under Section 955 of the "Municipal Act",
- (c) an officer or employee of the Municipality,
- (d) a volunteer firefighter or a special constable, and
- (e) any volunteer who participates in the delivery of services by the Municipality or the bodies referred to in paragraphs (a) and (b) under the supervision of an officer or employee of the Municipality or any of those bodies,

"Officer" includes every person capable of coming within the meaning of those words as contained in Section 255, subsection (2) of the "Municipal Act" and Municipal Public Officers.

3. The Corporation of the Township of Esquimalt shall indemnify its officers, employees and members of Council against any claim for damages arising out of the performance of their duties as officers, employees or members of Council carried out within the course and scope of those duties, except a claim brought by one member of Council against another member of Council in his personal capacity, or a successful or settled claim where the cause of action is defamation, libel or slander brought by a third party against the officer, employee or member of Council. **[Bylaw No. 1931]**

4. It shall be a condition of the Corporation's obligation to indemnify an officer, employee or member of Council that the said officer, employee or member of Council agree that the Corporation has the right to conduct the defence of any claim and in its discretion to compromise or settle any claim. It is a further condition of the Corporation's obligation to indemnify an officer, employee or member of Council that the officer, employee or member of Council co-operate fully in the defence of the claim and provide statements when requested by the Corporation.
5. The Corporation shall, at its discretion, either assume the defence of an officer, employee or member of Council against whom such claim for damages is made or pay the legal costs and expenses incurred by the officer, employee or member of Council in defending the claim.
6. For the purposes of this Bylaw, the terms "Officer", "Employee" and "member of Council" include former officers, employees and members of Council at the time any claim for damages against them is brought provided that they were officers, employees or members of Council of the Corporation at the time the cause of action arose.
7. Bylaw No. 1761, cited as the "Officers' and Employees' Indemnity Bylaw, 1984", is hereby repealed.

Read a first time by the Municipal Council on 8th February, 1988.

Read a second time by the Municipal Council on 8th February, 1988.

Read a third time by the Municipal Council on 8th February, 1988.

RECONSIDERED, ADOPTED and FINALLY PASSED by the Municipal Council on 22nd February, 1988.

S. T. GRAY
MUNICIPAL CLERK

W. R. WARDER
MAYOR