



The Corporation of the City of Courtenay

# Staff Report

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**To:** Council  
**From:** Director of Corporate Services  
**Subject:** Indemnification Authorization Bylaw No. 3151, 2024

**File No.:** 3900  
**Date:** July 17, 2024

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## **PURPOSE:**

To bring forward Indemnification Authorization Bylaw No. 3151, 2024 for Council's consideration.

## **BACKGROUND:**

An indemnification bylaw protects municipal officials<sup>1</sup> from financial liability arising from their actions taken in the course of their role. The purpose of the bylaw is to ensure that individuals who act in good faith on behalf of the municipality are not personally financially responsible for any legal costs or damages that may arise as a result of their actions.

## **DISCUSSION:**

Without an indemnification bylaw in place for elected officials and staff, there is a significant risk that individuals carrying out their official duties may be personally exposed to legal and financial liabilities. In the absence of such protection, elected officials and staff members could be held personally responsible for any legal claims, lawsuits, or damages arising from their actions taken on behalf of the municipality. This lack of indemnification may deter qualified candidates from seeking public office or taking on key roles within the local government, as they would have to bear the risk of potential legal costs and personal financial consequences. Additionally, without the assurance of indemnification, elected officials and staff may be hesitant to make important decisions or take necessary actions, which could hinder the effective governance and functioning of the local government. Therefore, having an indemnification bylaw is essential to safeguard the interests of those serving in municipal roles and ensure the smooth operation of the local government.

A municipal official would not be indemnified under the proposed Indemnification Bylaw if the claim does not arise in connection with the official's exercise or intended exercise of their powers or the performance or intended performance of their duties. Additionally, the Bylaw does not apply to defamation claims against a council member or proceedings to disqualify a council member from office brought pursuant to the Community Charter. Furthermore, the City may seek indemnity against a municipal official if a court finds that the person has been guilty of dishonesty, gross negligence, or malicious or wilful misconduct.

## **POLICY ANALYSIS:**

Council may, by bylaw, provide for the indemnification of municipal officials in respect of certain matters in accordance with the bylaw, pursuant to Section 740 of the *Local Government Act*.

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<sup>1</sup> Municipal Official means 1) current or former City council member; a current or former City officer or employee; and 3) a person who is or was a person referred to in section 738(1) of the Local Government Act, but only in relation to the exercise of powers or the performance of duties or functions for or on behalf of the City.

**FINANCIAL IMPLICATIONS:**

The financial implications associated with Indemnification Authorization Bylaw No. 3151, 2024 are difficult to forecast as implications are dependent on external factors (such as the commencement of legal action against one or more municipal officials) which are outside of the City’s control.

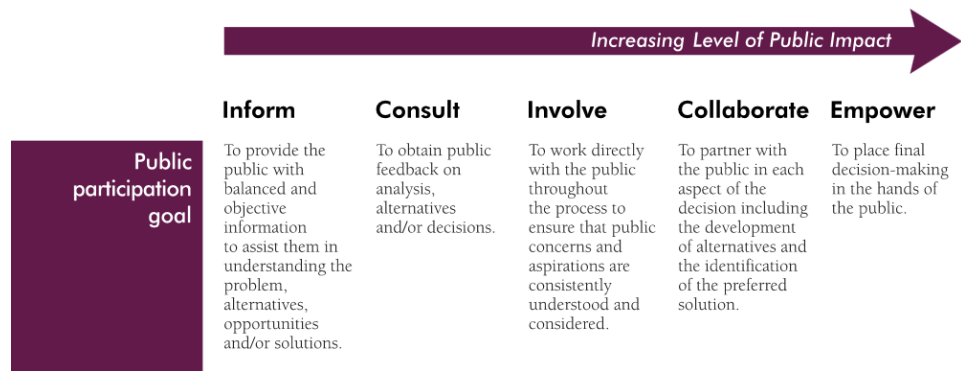
Past practice has been to indemnify municipal officials from such legal actions, and legal costs are therefore not anticipated to increase should Council proceed with the bylaw.

**ADMINISTRATIVE IMPLICATIONS:**

As Indemnification Authorization Bylaw No. 3151, 2024 would codify past practice of providing indemnification to municipal officials, no additional administrative implications are anticipated.

**PUBLIC ENGAGEMENT:**

Staff would inform the public based on the IAP2 Spectrum of Public Participation:



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**OPTIONS:**

1. THAT Council give first, second, and third reading to “Indemnification Authorization Bylaw No. 3151, 2024”.
2. THAT Council provide alternative direction to staff.

**ATTACHMENTS:**

1. Indemnification Authorization Bylaw No. 3151, 2024

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