

To: Regional and Corporate Services Committee
From: Jaime Van Nes, Director of Legislative Services

Date: 2025-07-10
File No: 3920-20-1798, 2025

Subject: Fraser Valley Regional District Indemnification Bylaw No. 1798, 2025

Reviewed by: Jennifer Kinneman, Chief Administrative Officer

RECOMMENDATION

THAT the Fraser Valley Regional District Board give three readings and adoption to the bylaw cited as Fraser Valley Regional District Indemnification Bylaw No. 1798, 2025.

BACKGROUND

Indemnification is a legal concept that refers to the act of compensating someone for a loss or damage that they have suffered. Section 740 of the *Local Government Act* provides regional districts with the authority to pass bylaws to provide for the indemnification of regional district officials for any legal action brought against them in the honest exercise and performance of their powers, duties or functions. An indemnification bylaw provides for circumstances in which legal fees, as well as costs, fines and awards of damages incurred or made against a regional district official will be paid by the Fraser Valley Regional District (FVRD).

In 2003, the FVRD adopted the *Fraser Valley Regional District Indemnification Bylaw No. 0566, 2003*.

DISCUSSION

A recent BC Court of Appeal decision in *Anderson v. Strathcona Regional District* has underscored the need for local governments to have clear and precise language in their indemnification bylaws. In light of the recent court decision, staff are recommending that **the FVRD's indemnification bylaw** be updated to reflect current legislation and legal best practices.

The term 'regional district official' is defined by section 738(1) of the *Local Government Act* and includes the following in relation to the exercise of powers or the performance of duties or functions for, or on behalf of the FVRD:

- Current or former FVRD Board members;
- Current or former FVRD officers or employees;
- Volunteer fire department members;
- FVRD volunteer who participates in the delivery of FVRD services; and
- Board of Variance members appointed by the FVRD Board.

The draft bylaw includes the following provisions which require regional district officials who are seeking indemnity under the bylaw to:

- Promptly provide a copy of **the documents initiating any action to the FVRD's Corporate Officer**;
- Not admit or assume liability, not enter into a settlement or enter a guilty plea except with the approval of the FVRD;
- Consent in writing to the FVRD having the sole discretion to appoint and instruct legal counsel, to conduct all necessary investigations, negotiate or settle the action, prosecution or proceeding; and
- Co-operate with the FVRD and their appointed legal counsel in relation to the action, prosecution, inquiry or other proceeding, including to secure information, evidence and witnesses in the defence of an action or prosecution.

As a limit to indemnification, the draft indemnification bylaw would not apply in the following circumstances:

- Claims that do not arise in connection with a regional district **official's exercise or intended** exercise of their power or the performance or intended performance of their duties;
- Where a court has found the regional district official to have engaged in dishonesty, gross negligence or malicious or willful misconduct;
- Defamation claims made against a Board member;
- Proceedings to disqualify a Board member from office; and
- Any proceedings or complaints made under the FVRD Code of Responsible Conduct Policy which outlines its own separate process related to reimbursement of legal costs.

Notwithstanding the above, a regional district official may still seek indemnity by Board resolution on a case-by-case basis. For example, in the case of a defamation claim brought against a Board member, the Board may wish to consider the facts and circumstances of the claim on a case-by-case basis first, rather than having indemnification follow automatically.

COST

In cases where indemnification is required, the FVRD is insured with liability insurance through the Municipal Insurance Association of BC (MIABC) to cover the costs of any claims that may be brought against a regional district official in relation to the exercise of powers or performance of duties or functions for or on behalf of the FVRD.

CONCLUSION

Legislation provides regional districts with the authority to pass bylaws to provide for the indemnification of regional district officials for any legal action brought against them in the honest exercise and performance of their powers, duties or functions. The definition of regional district officials includes current and former Board members and employees, volunteer fire department

members, other volunteers who are participating in the delivery of FVRD services, as well as Board of Variance members appointed by the FVRD Board.

The draft indemnification bylaw outlines requirements for regional district officials seeking indemnification, and sets out certain circumstances in which the draft indemnification bylaw would not apply. However, a regional district official may still seek indemnity by Board resolution on a case-by-case basis.