



**BY-LAW NO. 326-2012
A BY-LAW TO ESTABLISH POLICY
FOR LEGAL INDEMNIFICATION OF BOARD MEMBERS
AND BOARD EMPLOYEES**

1. PREAMBLE

- 1.1 WHEREAS Section 29 and 30 of the *Police Services Act* makes reference to a Board's protection from personal liability;
- 1.2 AND whereas Section 37 of the *Police Services Act* provides that a Police Services Board shall establish its own rules and procedures in performing its duties under this *Act*;
- 1.3 AND whereas the Board deems it expedient to pass a by-law to protect Board members and its employees from liability for legal expenses incurred in connection with the defense of certain actions referred to in this by-law pursuant to the provisions of the *Municipal Act*, S.O. 2001, ch.25, s.279 and amendments thereto, and the *Municipal Conflict of Interest Act*, R.S.O. 1990, ch.50, s.14 and amendments thereto, and further to protect Board employees from pecuniary loss or liability in respect of those actions.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2. DEFINITIONS

- 2.1 "*Board*" means the Regional Municipality of Niagara Police Services Board;
- 2.2 "*Board Member*" means a member of the Niagara Police Services Board.

3. BOARD POLICY

- 3.1 In the event that a Board member incurs any legal expense as a result of any action or other proceeding, except a proceeding brought under the *Municipal Conflict of Interest Act*, arising out of acts or omissions done or made in good faith by that Board member in his or her capacity as a Board member, including while acting in the performance of any statutory duty, the Board shall pay on behalf of or reimburse the Board member for any such legal expenses, provided that the Board has determined that the acts or omissions were done or made in good faith.
- 3.2 In the event that a Board member incurs any legal expense as a result of any action or proceeding brought under the *Municipal Conflict of Interest Act*, arising out of acts or omissions done or made in good faith by that Board member in his or her capacity as a Board member, including while acting in the performance of any statutory duty, and in the event that the Board member is found not to have contravened section 5 of that *Act*, the Board shall pay on behalf of or reimburse the Board member for any such legal

expenses, provided that the Board has determined that the acts or omissions were done or made in good faith.

- 3.3 This by-law applies to all current Board members from time to time, and further, applies to any person who was a Board member at the time the cause of action or other proceeding arose, but who, prior to judgment or other settlement of the action or proceeding, has ceased to be a Board member.
- 3.4 The provisions of section 3.1 above apply when the necessary modifications to Board employees, and further the Board shall indemnify and save harmless its employees against any risks that may involve pecuniary loss or liability on the part of those employees arising out of the good faith performance or attempted good faith performance of the employee's duties, in accordance with section 279 of the *Municipal Act*.
- 3.5 Prior to the paying of legal expenses referred to section 3, the Board may require that the account of the solicitor acting for the Board member be assessed by the Assessment Officer of the Superior Court of Justice pursuant to the provisions of the *Solicitors Act*, R.S.O. 1990, ch.s.15 for the Province of Ontario.

4. IMPLEMENTATION

- 4.1 By-law No. 124-91, as amended, and all other By-laws, sections of By-laws and procedural policies of the Board inconsistent with the provisions of this By-law are hereby repealed.
- 4.2 This By-law shall come into force on the date of its enactment.

ENACTED AND PASSED this 30th day of August, 2012.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Signed Original on File
Chairperson

Signed Original on File
Executive Director