



BY-LAW NO. 383-2019

**A BY-LAW TO ESTABLISH POLICY
FOR LEGAL INDEMNIFICATION OF AUXILIARY MEMBERS OF THE SERVICE**

1 PREAMBLE

- 1.1 WHEREAS the Board from time to time appoints auxiliary members of the Police Service pursuant to Section 52 of the *Police Services Act*;
- 1.2 AND whereas auxiliary members are not members of either the Niagara Region Police Association or the Niagara Regional Police Senior Officers' Association;
- 1.3 AND whereas the Board is responsible for torts committed by its members in accordance with Section 50(1) of the *Police Services Act*;
- 1.4 AND whereas auxiliary members are deployed in situations which could result in civil or criminal liability for the auxiliary member;
- 1.5 AND whereas legal indemnification provisions respecting Uniform and Civilian members of the Service are found in Article 49 (Uniform) and Article 34 (Civilian) of the Collective Agreements;
- 1.6 AND whereas the Board has deemed it appropriate to provide auxiliary members with similar legal indemnification afforded to sworn and civilian members.

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

2 DEFINITIONS

- 2.1 "Act" means the *Police Services Act*, R.S.O. 1990, c.P.15, and amendments thereto;
- 2.2 "Auxiliary member" means a member of the Niagara Regional Auxiliary Police Service;
- 2.3 "Board" means the Regional Municipality of Niagara Police Services Board;
- 2.4 "Service" means the Niagara Regional Police Service.

3 BOARD POLICY

- 3.1 An auxiliary member charged and finally acquitted of a criminal or statutory offence, because of acts done while on duty in the attempted good faith performance of his/her duties as an auxiliary officer shall be indemnified for the necessary and reasonable legal costs incurred in the defence of such charges provided that such necessary and reasonable legal costs shall not exceed \$350.00 per hour in respect of the lawyer performing the work, or \$90.00 per hour in the event that a paralegal is performing the work, and shall not include any allowance for travel time.

- 3.2 Notwithstanding 3.1 above, the Board may refuse payment otherwise authorized under 3.1 where the actions of the auxiliary member from which the charges arose amounted to a dereliction of duty or abuse of his/her powers as an auxiliary member.
- 3.3 Where an auxiliary member is named as a defendant in a civil action for damages because of acts done in the attempted performance in good faith of his/her duties as an auxiliary officer, the civil action will be defended by the Board on behalf of the auxiliary member using the Board's lawyer unless in the opinion of the lawyer, there is a conflict of interest which requires the appointment of a separate lawyer for the auxiliary member. In the event that such indemnification is provided, the hourly rates shall be as described in 3.1 above.
- 3.4 In the event that the conduct of an auxiliary member is called into question in a Coroner's Inquest, or in a proceeding under the *Public Inquiries Act*, or before a royal Commission, because of acts done in the attempted good faith performance of the member's duties as an auxiliary officer, the auxiliary member shall be indemnified by the Board for the necessary and reasonable legal costs incurred in respect of the matter if the Board concludes that legal representation is necessary and reasonable. In the event that such indemnification is provided, the hourly rates shall be as described in 3.1 above.

4 DIRECTION TO THE CHIEF

- 4.1 The Chief shall establish written procedures and processes with respect to the application for legal indemnification of auxiliary members of the Service in accordance with this By-law and Board Policy.

5 REPORT TO THE BOARD

- 5.1 The Chief shall make a written confidential report to the Board for any requests or applications of the auxiliary member for legal indemnification, which includes a brief description of the situation with recommendation.

6 IMPLEMENTATION

- 6.1 By-law No. 380-2018, 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.
- 6.2 This By-law shall come into force upon the date of its passage.
- 6.3 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 28th day of February, 2019.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Chairperson _____

Executive Director _____