



**BY-LAW NO. 324 - 2012**  
**A BY-LAW RESPECTING**  
**POLICING ABORIGINAL OCCUPATIONS & PROTESTS**  
**(PO-003)**

**1. PREAMBLE**

- 1.1 WHEREAS section 4(1) of the *Police Services Act* states that every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs;
- 1.2 AND whereas, section 4(2) of the *Police Services Act* states adequate and effective police services must include, at a minimum, all of the following police services:
1. Crime prevention;
  2. Law enforcement;
  3. Assistance to victims of crime;
  4. Public order maintenance;
  5. Emergency response;
- 1.3 AND whereas, section 1 of the *Police Services Act* sets out principles for the provision of police services throughout Ontario, including:
- The need to ensure the safety and security of all persons and property in Ontario;
  - The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*;
  - The need for co-operation between the providers of police services and the communities they serve;
  - The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society;
- 1.4 AND whereas section 42(1)(a) of the *Police Services Act* states the duties of a police officer include, preserving the peace;
- 1.5 AND whereas section 42(3) of the *Police Services Act* states a police officer has the powers and duties ascribed to a constable at common law;
- 1.6 AND whereas section 2 of the *Criminal Code* defines *peace officer*, referring to a duty to ensure the preservation and maintenance of the public peace;
- 1.7 AND whereas subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- b. generally determine after consultation with the Chief of Police, objectives and priorities with respect to police service in the municipality;

- c. establish priorities for the effective management of the police service, and
- e. direct the Chief of Police and monitor his or her performance;

- 1.8 AND whereas subsection 31(6) of the *Police Services Act* provides that the Board may, by by-law, make rules for the effective management of the police service;
- 1.9 AND whereas O. Reg. 3/99 prescribes standards for adequacy and effectiveness of police services;
- 1.10 AND whereas Part PO-003 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the police service and the Chief relative to policing Aboriginal occupations and protests.

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

## **2 DEFINITIONS**

- 2.1 “*Aboriginal occupation*” means the seizure and control of an area arising from assertions of Aboriginal or treaty rights by members of an Aboriginal group;
- 2.2 “*Aboriginal people*” has the same meaning as in section 35(2) of the *Constitution Act, 1982*, which states that Aboriginal peoples includes Indian, Inuit and Metis people;
- 2.3 “*Aboriginal protest*” means a physical demonstration related to assertions of Aboriginal or treaty rights by members of an Aboriginal group;
- 2.4 “*Act*” means *Police Services Act*, R.S.O. 1990, c.P.15, as amended;
- 2.5 “*Board*” means the Regional Municipality of Niagara Police Services Board;
- 2.6 “*Chief*” means the Chief of the Niagara Regional Police Service;
- 2.7 “*Manual*” means the Policing Standards Manual published by the Ministry of Community Safety and Correctional Services;
- 2.8 “*Member*” means a member of the Niagara Regional Police Service;
- 2.9 “*Ministry*” means the Ministry of Community Safety and Correctional Services;
- 2.10 “*Service*” means the Niagara Regional Police Service.

## **3 BOARD POLICY**

- 3.1 The Board recognizes the objective of policing Aboriginal occupations and protests is to preserve the peace, prevent offences, and enforce the law in a manner that respects the rights of all involved parties, and it is therefore the policy of this Board that the policing of Aboriginal occupations and protests be conducted professionally and thoroughly, and in accordance with procedures established by the Chief as directed in this By-law.

## **4** ***DIRECTION TO THE CHIEF***

### 4.1 *PROCEDURES*

- 4.1.1 The Chief will develop written procedures in accordance with Appendix "A" that set out the policing of Aboriginal occupations and protests.
- 4.1.2 The Chief shall ensure the role of the police at an Aboriginal occupation or protest is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to a police officer under the law.
- 4.1.3 The Chief shall ensure the consideration of police actions at an Aboriginal occupation or protest include preserving the peace, communication, negotiation and building trust with participating and affected communities.
- 4.1.4 The Chief shall develop and maintain procedures on:
- i. communicating information in relation to police procedures on Aboriginal occupations and protests;
  - ii. training requirements for policing Aboriginal occupations and protests;
  - iii. fostering community understanding of the police response to the events;
  - iv. the collection and analysis of information prior to and during events; and
  - v. addressing the uniqueness of Aboriginal occupations and protests.

### 4.2 *TRAINING*

- 4.2.1 The Chief shall ensure that Members receive the appropriate training and that Members involved in policing Aboriginal occupations and protests have the requisite knowledge, skills and abilities and receive training on an ongoing basis.

### 4.3 *COMMUNICATIONS STRATEGY*

- 4.3.1 The Chief will develop a communication strategy in on policing Aboriginal occupations and protests in accordance with section 2 of Appendix A.

## **5** ***REPORT TO THE BOARD***

- 5.1 The Chief shall make a written report to the Board on or before August 30 of each year in respect of policing Aboriginal occupations and protests. The report shall include:
- a. a summary of the procedures as required by this By-law;
  - b. the status of Service compliance with the said procedures;
  - c. a summary of the training given to Members with respect to policing Aboriginal occupations and protests;
  - d. a summary of any incidents of police response to Aboriginal occupations and protests; and
  - e. a summary of the steps taken by the Service to monitor and evaluate response to Aboriginal occupations and protests.

**6**                    ***IMPLEMENTATION***

6.1                    This By-law shall come into force upon the date of its passage.

6.2                    The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 26<sup>th</sup> day of July, 2012.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Signed Original on File  
Chairperson

Signed Original on File  
Executive Director

## Legislative/Regulatory Requirements

Section 4(1) of the *Police Services Act* states every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Section 4(2) of the *Police Services Act* states adequate and effective police services must include, at a minimum, all of the following police services:

1. Crime prevention.
2. Law enforcement.
3. Assistance to victims of crime.
4. Public order maintenance.
5. Emergency response.

Section 1 of the *Police Services Act* sets out principles for the provision of police services throughout Ontario, including:

- The need to ensure the safety and security of all persons and property in Ontario.
- The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
- The need for co-operation between the providers of police services and the communities they serve.
- The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.

Section 42(1)(a) of the *Police Services Act* states the duties of a police officer include, preserving the peace.

Section 42(3) of the *Police Services Act* states a police officer has the powers and duties ascribed to a constable at common law.

Section 2 of the *Criminal Code* defines *peace officer*, referring to a duty to ensure the preservation and maintenance of the public peace.

1. For the purposes of this guideline, Aboriginal occupation means: the seizure and control of an area arising from assertions of Aboriginal or treaty rights by members of an Aboriginal group.
2. For the purposes of this guideline, Aboriginal protest means: a physical demonstration related to assertions of Aboriginal or treaty rights by members of an Aboriginal group.
3. For the purposes of this guideline, Aboriginal people has the same meaning as in s. 35(2) of the *Constitution Act, 1982*. Subsection 35(2) states that Aboriginal peoples includes Indian, Inuit and Metis people.

### Sample Board Policy

Board Policy # \_\_\_\_\_

The objective of policing Aboriginal occupations and protests is to preserve the peace, prevent offences, and enforce the law in a manner that respects the rights of all involved parties. To this end, it is the policy of the \_\_\_\_\_ Police Services Board with respect to policing Aboriginal occupations or protests that:

- a) the role of the police at an Aboriginal occupation or protest is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to a police officer under the law.
- b) the consideration of police actions at an Aboriginal occupation or protest include preserving the peace, communication, negotiation and building trust with participating and affected communities.
- c) the Chief of Police will develop and maintain procedures on:
  - i. communicating information in relation to police procedures on Aboriginal occupations and protests;
  - ii. training requirements for policing Aboriginal occupations and protests;
  - iii. fostering community understanding of the police response to the events;
  - iv. the collection and analysis of information prior to and during events; and
  - v. addressing the uniqueness of Aboriginal occupations and protests.

**Police Service Guidelines***Procedures*

1. Every police service's procedures on policing Aboriginal occupations and protests should:
  - a) indicate that the role of the police at an Aboriginal occupation and protest is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to an officer under the law. With respect to their role in preserving the peace, officers should have regard to:
    - i. remaining neutral as to the underlying grievance, where possible; and
    - ii. facilitating the building of trust between police, participating and affected communities.
  - b) include training requirements for policing an Aboriginal occupation or protest that focus on:
    - i. the role of police;
    - ii. communication skills;
    - iii. ability to negotiate, mediate and/or engage in dispute resolution; and
    - iv. building trust.
  - c) foster community understanding of events by:
    - i. seeking the assistance/involvement of First Nations police services and First Nations police officers, when appropriate and where resources permit;
    - ii. seeking the assistance of Aboriginal mediators, when appropriate;
    - iii. consulting and sharing information with local communities that may be affected by an Aboriginal occupation and protest.
  - d) address the continuous gathering and use of relevant information prior to and during the event;
  - e) encourage police commanders for the event to acquire an understanding of and consider the uniqueness of these events in the context of the history, traditions, culture and claims of the occupiers or protestors;
2. Every police service's procedures on policing Aboriginal occupations and protests should require:
  - a) the development of a communications strategy that includes:
    - i. the mandate, functions and reporting relationships of the police officers involved;
    - ii. identifying police procedures and protocols;

- iii. how important messages are to be conveyed to communities participating in the protest and those affected by the protest;
  - iv. the technical aspects of how the police would communicate with occupiers;
  - v. the identity of specific persons, other than police agency members, who could effectively communicate with occupiers;
  - vi. how community information should be conveyed regarding significant Aboriginal occupations and protests, and how these incidents are policed;
  - vii. information on restoring police relationships with Aboriginal and non-Aboriginal communities affected by an Aboriginal occupation or protest directly or indirectly.
- b) the communications strategy to be provided to any involved First Nations police officers, First Nations police services, Aboriginal mediators, protestors, occupiers and the public during an Aboriginal occupation or protest.

Please note the general principles in this guideline could apply to the policing of occupations and protests that involve other identified groups and not solely Aboriginal occupations and protests.