



OWEN SOUND POLICE SERVICE

BOARD POLICY

Issued: December 18, 2024

Reviewed:

Revised:

Expires: Indefinite

Rescinds:

OSPSB GP-010 Special Constables

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1. **Policy Statement:**

- a) Pursuant to Section 92(1) of the *Community Safety and Policing Act (CSPA)* the Board may appoint a person as a Special Constable as deemed necessary and appropriate for the effective and efficient delivery of Police Service; and
- b) This Board will ensure that Members appointed as Special Constables are representative of the diversity of the population in the City of Owen Sound;

2. **Board Policy**

- a) It is the policy of the Owen Sound Police Service Board (the Board) with respect to the use of Special Constables that the Chief of Police will develop and maintain procedures that address the use of Special Constables by this Police Service in accordance with the *CSPA and Ontario Regulation 411/23 - Complaints - Special Constables*;
- b) The Board may suspend or terminate the appointment of a Special Constable who was appointed by the Board, as applicable, *Section 91(1)* of the *CSPA*;
- c) Before a Special Constable's appointment is terminated, they shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, to the Board, as the case may be, may determine;
- d) If a Special Constable has breached the Code of Conduct as outlined in *Ontario Regulation 410/23 (Appendix A)* without lawful excuse, failed to comply with the provisions of the Police Service's procedures, policy, order, or directive shall be the basis for disciplinary action;
- e) The Chief of Police may recommend to the Board that a Special Constable's services be terminated in accordance with *section 91(1)* of the *CSPA*. The Chief of Police shall submit a report to the Board, stating the reasons for requesting the termination;
- f) A Member shall only be terminated as a result of disciplinary action in accordance with the provisions of the Police Service's Procedures; and
- g) Special Constables will have the powers of a Peace Officer, to the extent and for the specific purpose set out in their Appointment.

3. **Recruitment:**

It is the Policy of the Board that the Chief of Police will develop and maintain procedures and processes that addresses the recruitment, application process and selection process of Special Constables.

4. **Appointment:**

The Board may appoint a person as a Special Constable if:

- a) An offer of employment to be a Special Constable from, or is currently employed as a Special Constable by:
 - I. The Board, or
 - II. A Special Constable employer located in the area for which the Board has policing responsibility.
- b) Is a Canadian citizen or a permanent resident of Canada;
- c) Is at least 18 years of age;
- d) Is physically and mentally able to perform the duties of the position, having regard to their own safety and the safety of members of the public;
- e) Is of good character;
- f) Meets one of the conditions (education) set out in 91(1) (g) of the *CSPA*;
- g) In addition:
 - I. Hold a non-probationary Ontario driver's licence and have accumulated no more than six (6) demerit points;
 - II. Have not been convicted of a criminal offence for which a pardon has not been obtained;
 - III. Have no criminal charges pending before the Courts;
 - IV. Possess a current First Aid and CPR Certificate;
 - V. Possess superior interpersonal skills and the ability to work cooperatively as a member of an effective and professional team;

- VI. Have a strong desire to serve the community, a strong sense of loyalty and duty, and the ability and willingness to follow instructions promptly and efficiently; and
- VII. Be certified by a legally qualified medical practitioner to be in good health in order to take part in physical testing and perform the physical requirements of the position.

5. **Orientation and Training:**

The Chief of Police or designate shall ensure initial training is provided to ensure Special Constables have the knowledge, skills and abilities required to perform their functions including:

- a) The program entitled “Police Employed Training Program”, developed by the Ontario Police College, and delivered by this Police Service in accordance with *Ontario Regulation 87/24 - Training*;
- b) If the Special Constable may be required to use force on another person or is authorized to carry or use a weapon within every 12 months, successfully complete the course entitled “Use of Force Requalification (Special Constables)”, delivered by the College or by a certified trainer in respect of the course;
- c) If it is not reasonably possible for a Special Constable to comply with, within a 12-month period, an extension of up to 60 days may be provided by the Chief of Police, during which time the Special Constable shall comply with the requirement in accordance with *Ontario Regulation 87/24 - Training*;
- d) The training prescribed by the Minister, including techniques to de-escalate conflict situations and any other matters prescribed by the Minister, unless the person has been exempted from some or all of this training in accordance with the *Regulations* made by the Minister;
- e) The training approved by the Minister with respect to human rights and systemic racism;
- f) The training approved by the Minister that promotes recognition of and respect for:
 - I. The diverse, multiracial, and multicultural character of Ontario society; and
 - II. The rights and cultures of First Nation, Inuit, and Métis Peoples.

- g) The Chief of Police Shall ensure existing Special Constables must complete similar training outlined in Section 5 (a) (b) (c) of this Policy within three years or before reappointment; and
- h) Any other training determined by the Chief of Police to perform their functions.

6. **Certificate of Appointment:**

- a) Successful applicant(s) for the position of Special Constable will be offered employment as a Special Constable;
- b) Successful applicant(s) must agree to abide by the Police Service's Policies and Procedures;
- c) Issued a Certificate of Appointment by the Board. The Certificate of Appointment shall contain:
 - I. The name of the employer who may employ the appointee as a Special Constable;
 - II. The term of the appointment, which must not be more than the prescribed period, if any;
 - III. The purposes for which the person may act as a Special Constable, from among those set out in the *Regulations*;
 - IV. The powers of a police officer that the Special Constable may exercise, if any, to the extent and for the purposes specified - *Ontario Regulation 396/23 - Schedule Purpose, and Powers for Certificate of Appointment and Permitted Weapons*;
 - V. Any weapons or prescribed equipment that the Special Constable is authorized to carry or use in the course of their duties; and
 - VI. Any other terms or conditions the Board consider appropriate.
- d) The Board may amend a Special Constable's Certificate of Appointment, including imposing new terms and conditions or varying existing terms and conditions, after giving the Special Constable written notice and an opportunity to respond orally or in writing, as the Board, as the case may be; and

- e) The Chief of Police shall ensure the successful applicant(s) take an Oath/Affirmation of Office and Secrecy, as prescribed by the *CSPA*, and be fingerprinted.

7. Special Constables Duties:

It is the policy of the Board with respect to the use of Special Constables that the Chief of Police will ensure Special Constables:

- a) Carry out their duties in accordance with the terms, conditions and purposes set out in the Certificate of Appointment;
- b) Exercise any police powers conferred on them:
 - I. Only to the extent and for the specific purposes set out in the Certificate of Appointment, and
 - II. In accordance with the *Regulations*, if any.
- c) Comply with the prescribed code of conduct; and
- d) Perform such other duties as are assigned to them by or under the *CSPA* and its *Regulation* or any other *Act*, including any prescribed duties.

8. Uniform and Equipment:

It is the Policy of this Board that the Chief of Police shall ensure:

- a) Any uniform worn by a Special Constable must comply with the requirements of *Ontario Regulation 86/24 - Special Constables Uniforms*:
 - I. The uniform must be of a colour that is readily distinguishable from the colour of the uniform typically worn by Police Officers performing patrol functions in the area where the Special Constable normally performs their duties; and
 - II. It must include pants or shorts that have a light purple stripe running along the length of both legs of the garment.
- b) The phrase "Special Constable";
 - I. Be clearly legible on any shoulder flashes, and

- II. Appear prominently and be clearly legible on any part of the uniform worn on the upper body, including any patrol jacket.
- c) The phrase “Special Constable” - must appear prominently and be clearly legible on the front and back of any body armour worn by a Special Constable;
- d) Special Constables will be issued with uniform and equipment items in accordance with the procedures of this Police Service; and
- e) The Chief of Police will establish procedures regarding the responsibilities and use of issued uniforms and equipment by Special Constables.

9. **Misconduct:**

- a) Misconduct shall include any misconduct that refers to any unacceptable behaviour as identified in the *CSPA*, including but not limited to:
 - I. A contravention of the Policies, Procedures, Routine Orders or Conditions of Employment of this Police Service or the Board;
 - II. A breach of any Federal, or Provincial Statute; and
 - III. Unsatisfactory Work Performance.
- b) Reference **Appendix A - Ontario Regulation 410/23 - Code of Conduct**.

10. **Holding Out as a Police Officer:**

It is the policy of the Board with respect to the use of Special Constables that the Chief of Police will ensure that:

- a) No Special Constable shall hold themselves out as a Police Officer - *Section 100(1)* of the *CSPA*.

Note: Section 100 comes into force one year after the day subsection 92 (1) *CSPA* comes into force.

11. Disclosure of Misconduct:

- a) It is the Policy of the Board with respect to disclosure of misconduct that the Chief of Police shall establish written procedures regarding the disclosure of misconduct that is alleged to have been engaged in by a Special Constable other than by the Chief of Police or Deputy Chief of Police, pursuant to section 183 (1) of the *CSPA*; and
- b) The Chief of Police shall ensure that Members of the Police Service are familiar with the procedures related to disclosure of misconduct, as applicable, and the protections from reprisals for disclosing misconduct.

12. Complaints about Special Constables: (*Ontario Regulation 411/23*):

- a) Any person not listed in Section 12 (b) of this Policy may make a complaint about Special Constables of this Police Service to the Chief of Police or designate;
- b) The following persons shall not make a complaint about a Special Constable in accordance with Section 19 (a) of this Procedure and shall instead follow the applicable procedure set out in section 183 or 185 of the *CSPA*:
 - I. Other Members of the Police Service in which the Special Constable is employed, and Members or Employees of the Police Service Board that maintains the Police Service;
 - II. The Minister;
 - III. The Inspector General, a Deputy Inspector General or an inspector appointed under section 111 of the *CSPA*;
 - IV. The Complaints Director, a Deputy Complaints Director, an employee in the Law Enforcement Complaints Agency or an investigator; and
 - V. The SIU Director or an employee or investigator in the Special Investigations Unit.
- c) A complaint may be made in accordance with Section 5 (a) of this Policy on behalf of:
 - I. A person who is a minor, by the person's parent or guardian; or

- II. A person who is incapable as defined in the *Substitute Decisions Act, 1992* and who is not a minor, by their substitute decision-maker under that *Act*.
- d) A complainant may act through an agent in respect of a complaint made in accordance with Section 5 (a) of this Policy. If a complainant acts through an agent, a requirement under *Ontario Regulation 411/23* to give notice to the complainant may be met by giving notice to the complainant's agent;
 - e) If a person who may make a complaint to a Special Constable's Chief of Police instead makes the complaint to any of the persons listed in section 3(1) of *Ontario Regulation 411/23*, that person shall forward the complaint to the Chief of Police and inform the person who made the complaint that the complaint has been forwarded;
 - f) When the Chief of Police or designate receives a complaint regarding a Special Constable, the Chief of Police shall provide the complainant with written acknowledgement that the complaint has been received;
 - g) If a person makes a complaint to a Member of a Police Service other than a Chief of Police or to a Special Constable who is not a Member of a Police Service, the Member of a Police Service or Special Constable shall notify their Chief of Police of the complaint;
 - h) If the Chief of Police receives a complaint under Section 12 (g) of this Policy is not the Chief of Police of the Special Constable who is the subject of the complaint, Section 12 (e) of this Policy applies, with necessary modifications, as if the complaint had been made to the Chief of Police; and
 - i) The complaint of a person that is forwarded to a Chief of Police under this section is deemed for the purposes of the *Regulation* to have been made by the person directly to the Chief of Police or Special Constable, as applicable.

13. Complaints Process – Special Constables:

This Board, in partnership with the Chief of Police, will develop and maintain policies and procedures that addresses complaints about Special Constables pursuant to the *CSPA* and *Ontario Regulation 411/23 - Complaints About Special Constables*.

The Board in partnership with the Chief of Police shall:

- a) Establish a process for complaints to be made to the Chief of Police about the conduct of Special Constables;

- b) Ensure the complaints process is made available on the Police Service's website informing people how to make a complaint, ref: **Appendix B**;
- c) Ensure the investigation process is in compliance with section 7 of *Ontario Regulation 411/23 - Complaints About Special Constables*;
- d) Ensure the complaint process shall consist, at minimum, the following steps:
 - I. Resolution Process;
 - II. Informal Resolutions (Public Complaints);
 - III. Internal Investigation process;
 - IV. Disciplinary Meeting;
 - V. Disciplinary Meeting – Findings;
 - VI. Disciplinary Action;
 - VII. Relieved from Duty (Immediately);
 - VIII. Suspension from Duty; and
 - IX. Termination of Appointment.
- e) Ensure the complainant, is advised, in writing, of the outcome of the investigation and when appropriate the action taken to remedy the contravention.

14. Suspension from Duty:

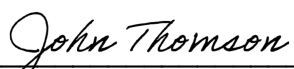
- a) The Board may suspend or terminate the appointment of a Special Constable who was appointed by the Board, as applicable, section 92(1) and 94(1) of the *CSPA*;
- b) The Chief of Police will submit a report to the Board, stating the reasons for requesting the suspension;
- c) Before a Special Constable's appointment is suspended, they shall be given written notice with respect to the reasons for the suspension or termination and an opportunity to respond orally or in writing, as the Board may determine; and
- d) The Chief of Police will establish and maintain procedures and processes regarding the suspension of Special Constables.

15. Suspension from Duty without Pay:

- a) A Special Constable may only be suspended from duty without pay by the Chief of Police or designate where:
 - I. The suspension arises as a result of the imposition of a disciplinary penalty during a Disciplinary Meeting – Findings; or
 - II. Pending consideration of a Report by the Police Service Board recommending the termination of the Special Constable's employment. In such cases, the Special Constable shall be served with a "Notice of Suspension" advising of the reasons for the recommendation.
- b) The Chief of Police shall establish and maintain procedures and processes with respect to the suspension of Special Constables without pay.

16. Termination of Appointment:

- a) The Board may suspend or terminate the appointment of a Special Constable who was appointed by the Board, as applicable, section 91(1) and 94(1) of the *CSPA*;
- b) The Chief of Police will submit a report to the Board, stating the reasons for requesting the termination;
- c) Before a Special Constable's appointment is terminated, they shall be given written notice with respect to the reasons for the termination and an opportunity to respond orally or in writing, as the Board may determine, section 94(2) *CSPA*; and
- d) The Chief of Police will establish and maintain procedures and processes with respect to the Termination of Special Constables.



Chair

December 18th, 2024
Date



Board Secretary

December 18th, 2024
Date

Appendix A

Code of Conduct Special Constables

Ontario Regulation 410/23 sets out the code of conduct with which every Special Constable must comply;

a) Conduct of a Special Constable does not contravene this code of conduct if it is:

- I. Done in accordance with a designation made under subsection 25.1 (3) or 25.1 (6) of the *Criminal Code* (Canada) or an authorization made under paragraph 25.1 (9) (a) of that Act, as applicable, including any conditions that apply to the designation; and
- II. Justified in accordance with the rules set out in section 25.1 of the *Criminal Code* (Canada).

b) Compliance with CSPA:

A Special Constable shall comply with the *Act* and the *Regulations* made under it;

c) Compliance with *Special Investigations Unit Act, 2019*:

A Special Constable shall comply with the *Special Investigations Unit Act, 2019* and the regulations made under it;

d) Contravention — guilty of offence:

A Special Constable contravenes this code of conduct if they are found guilty of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Cannabis Act* (Canada);

e) Human Rights Code:

- I. A Special Constable shall not, in the course of their duties, treat any person in a manner that the Special Constable, at the time, knows or reasonably ought to know would contravene the *Human Rights Code*; and
- II. A Special Constable shall not be subject to discipline for a contravention of Section (e) (I) above if, on a balance of probabilities, the Special Constable's conduct was in the good faith performance of their duties.

f) Charter of Rights and Freedoms:

- I. A Special Constable shall not, by act or omission, do anything that the Special Constable, at the time, knows or reasonably ought to know would infringe or deny a person's rights or freedoms under the *Canadian Charter of Rights and Freedoms*; and
- II. A Special Constable shall not be subject to discipline for a contravention of Section (f) (I) above if, on a balance of probabilities, the conduct was in the good faith performance of their duties.

g) Interactions with public:

- I. A Special Constable shall not make an arrest if, at the time of the arrest, the Special Constable knows or reasonably ought to know that the arrest is unlawful; and
- II. A Special Constable shall not be subject to discipline for a contravention of Section (g) (I) above if, on a balance of probabilities, the conduct was:
 - in the good faith performance of the Special Constable's duties; and
 - consistent with the Special Constable's training and any applicable Procedures established by the Chief of Police.

h) Unlawful detention:

- I. A Special Constable shall not authorize or make a physical or psychological detention if, at the time of the detention, the Special Constable knows or reasonably ought to know that the detention is unlawful; and
- II. A Special Constable shall not be subject to discipline for a contravention of Section (h) (I) above if, on a balance of probabilities, the conduct was:
 - in the good faith performance of the Special Constable's duties; and
 - consistent with the Special Constable's training and any applicable Procedures established by the Chief of Police.

i) Health and Safety of Individual in Custody:

A Special Constable shall not neglect the health or safety of any individual who is in their custody as a result of the Special Constable's duties;

j) Public Trust:

- I. A Special Constable shall not conduct themselves in a manner that undermines, or is likely to undermine, public trust in the delivery of services by Special Constables; and
- II. A Special Constable shall not be subject to discipline for a contravention of Section (j) (I) above if, on a balance of probabilities, their conduct was:
 - their duties as a Special Constable; or
 - their duties as a representative of an Association representing Special Constables.

k) Use of Force:

- I. A Special Constable shall not use force unless:
 - the force is used for the purpose of carrying out a duty;
 - the Special Constable is entitled by Statute or Common Law to use force for the purpose of carrying out that duty;
 - the Special Constable is acting on reasonable grounds; and
 - the force used is no more than is necessary given the circumstances.
- II. A Special Constable shall not be subject to discipline for a contravention of Section (k) (I) above if, on a balance of probabilities, their conduct was:
 - in the good faith performance of their duties; and
 - consistent with the Special Constable's training and any applicable procedures established by the Chief of Police.

l) Abusive Language:

- I. A Special Constable shall not, in the course of their duties, use abusive language with any person or otherwise treat any person in a manner that is abusive, and

- II. A Special Constable shall not be subject to discipline for a contravention of Section (l) (I) above if, on a balance of probabilities, their conduct was in the good faith performance of their duties.

m) Provision of Names:

While acting in the course of their duties, a Special Constable shall, upon request, provide their name and the name of their employer to any member of the public in a manner reasonable in the circumstances that allows the member of the public to identify the Special Constable, unless the Special Constable has reason to believe that doing so would undermine the safety of an individual;

n) Bribery:

A Special Constable shall not solicit, offer, or take a bribe;

o) Gratuities, Presents:

- I. A Special Constable shall not accept a gratuity or present of more than nominal value from any person or entity if the gratuity or present could influence or could be perceived to influence the performance of their duties; and
- II. Section (o) (I) above does not apply if the Special Constable's Chief of Police, authorizes them to accept the gratuity or present.

p) Benefits, Interference with Administration of Justice:

- I. A Special Constable shall not use their position as a Special Constable to do any of the following:
- benefit themselves or one or more persons with whom they have a personal relationship, subject to Section (p) (II) below; and
 - interfere with the administration of justice.
- II. A Special Constable does not contravene Section (p) (I) above if:
- the benefit occurs incidentally in the usual course of carrying out the Special Constable's duties; and
 - in the case of a Special Constable who is a Member of a Police Service, the Special Constable's conduct does not contravene any *Regulations* made under CSPA with respect to conflict of interest.

III. In Section (p) (I) above,

“personal relationship” includes, but is not limited to, a relationship with any of the following persons:

- a current or former spouse or common-law partner of the Special Constable;
- a current or former intimate partner of the Special Constable;
- the Special Constable’s children, including biological and adoptive children and stepchildren;
- the legal dependants of the Special Constable;
- a child in the Special Constable’s care; and
- the Special Constable’s grandparents, parents, or siblings, including grandparents-in-law, parents-in-law, and siblings-in-law.

q) Disclosure of Information:

- I. A Special Constable shall not disclose to the public information obtained or made available in the course of their duties except as authorized, as necessary for the performance of their duties or as required by law; and
- II. Section (q) (I) above does not apply to information that was already made available to the public by a person who was authorized to do so prior to the Special Constable’s disclosure.

r) Information Obtained or Made Available in Course of Duties:

A Special Constable shall not access, collect, use, disclose, alter, retain or destroy information obtained or made available in the course of their duties as a Special Constable if, at the time, they know or reasonably ought to know that doing so would be contrary to law;

s) Appropriate performance of duties:

- I. A Special Constable shall not, by act or omission, fail to perform their duties appropriately without lawful excuse if, at the time, they know or reasonably ought to know that their act or omission would amount to a failure to perform their duties; and
- II. A Special Constable shall not, if they exercise any powers granted pursuant to their appointment under section 92 of the CSPA, by act or omission fail to exercise them appropriately without lawful excuse if, at the time, they know or reasonably ought to know that their act or omission would amount to a failure to exercise them appropriately.

t) Impairment by substances:

A Special Constable shall not perform or attempt to perform duties as a Special Constable while their ability to perform duties is impaired by alcohol or drugs;

u) Reporting Conduct of Another Member:

- I. A Special Constable who is a Member of a Police Service shall report conduct of another Member of the Police Service in accordance with the Procedures described in subsection 183 (1), (2) or (3) of the *CSPA*, as applicable, or to the Inspector General in accordance with section 185 of the *CSPA* if the Special Constable reasonably believes, or reasonably ought to believe, that the conduct constitutes misconduct;
- II. Despite subsections (I), a Special Constable who is acting as a Representative of an Association representing Special Constables is not required to report conduct that was made known to the Special Constable for the purpose of obtaining the Special Constable's assistance in their capacity as an Association Representative, unless failing to report the conduct would pose a serious risk of harm to any person; and
- III. Despite Sections (u) (I) above, a Special Constable who is participating in an organized peer support group is not required to report conduct of a Member of the Police Service or a Special Constable that was made known to the Special Constable in the course of participating in the peer support group, unless failing to report the conduct would pose a serious risk of harm to any person.

v) Deception:

A Special Constable shall not deceive or mislead any person in relation to their duties, the Special Constable's employment, or the administration of justice through any act or omission, except to the extent required or authorized for the purpose of carrying out their duties.

Appendix B

Special Constable Complaints Process

Any member of the public who is directly affected by the conduct of a Special Constable can make a complaint.

When to file a complaint

The complaint against a Special Constable must be filed within 6 months of the incident.

How to file a complaint:

A complaint against a Special Constable must be made in writing and signed by the complainant. Complaints can be submitted by mail or hand-delivered to the attention of:

Chief of Police
Owen Sound Police Service
922 2nd Ave. W.
Owen Sound, ON N4K 4M7

A complaint may be made on behalf of:

- a) A person who is a minor, by the person's parent or guardian; or
- b) A person who is incapable as defined in the *Substitute Decisions Act, 1992* and who is not a minor, by their substitute decision-maker under that Act; and
- c) A person may act through an agent in respect to the complaint.

Complaint Process:

- a) The Chief of Police who receives a complaint about a Special Constable in their Police Service will provide the complainant with written acknowledgment that the complaint has been received;
- b) The Chief of Police or designate shall ensure that the complaint is investigated to determine whether the Special Constable's conduct constitutes misconduct, contravened the terms and conditions of the Special Constable's appointment, or contravened any provision of the *Community Safety Policing Act* or the *Regulations*;
- c) The Chief of Police shall ensure that any allegations in the complaint of conduct that may constitute criminal conduct are investigated by a Member of the Police Service or of another Police Service;

- d) Investigations of Special Constables must comply with the standards for adequate and effective policing, including the standards with respect to the avoidance of conflicts of interest;
- e) Any investigation of a Special Constable will be completed within 120 days after receiving the complaint, not including any period during which the investigation is postponed or suspended;
- f) If the timing requirements are not met in respect of an investigation, the Chief of Police will provide the status of the investigation to you every 30 days until the investigation is concluded unless, in the opinion of the Chief of Police, doing so might prejudice the investigation; and
- g) If the Special Constable is found to have engaged in conduct that constitutes misconduct, contravened the terms and conditions of their appointment, or contravened any provision of the *Community Safety and Policing Act* or the *Regulations*, the Chief of Police shall take appropriate action to remedy the contravention; and
- h) The Chief of Police will, in writing, advise the complainant of the outcome of the investigation of the complaint and when appropriate the action taken to remedy the contravention.