

BY-LAW 17-18

OF THE CORPORATION OF THE TOWN OF AYLMER

Being a By-law to Appoint John G. Maddox as
The Investigator for The Corporation of the Town of Aylmer pursuant to
Sections 8, 9, 10 and 239.1 of the Municipal Act (Ontario), as amended

WHEREAS effective January 1, 2008, pursuant to Section 239.1 of the Municipal Act (Ontario), as amended, a person may request an investigation of whether a municipality or local board has complied with Section 239 of the Municipal Act, 2001, as amended, or a procedural by-law under subsection 238(2) in respect of a meeting or part of a meeting that was closed the public;

AND WHEREAS, the Council of the Town of Aylmer did by By-law 55-07 appoint John G. Maddox, operating as JGM Consulting, as the Investigator to investigate all requests on behalf of the Municipality and its local boards for a one year term commencing January 1, 2008 and did by By-law 49-08, by By-law 51-09, by By-law 54-11, by By-law 42-15 and By-Law 05-17 reappoint JGM Consulting for further terms;

AND WHEREAS, Council deems it desirable to appoint John G. Maddox ("Maddox") as the Investigator to investigate all requests on behalf of the Municipality and its Local Boards for a further one-year term effective as of January 1, 2018;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF AYLMER ENACTS AS FOLLOWS:

1. That Maddox is hereby reappointed as the independent Investigator to investigate in accordance with Section 239.2 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, all requests for an investigation of the Council and its committees and local boards of the Corporation and committees for an additional one-year term commencing January 1, 2018, subject to the terms of the Agreement attached hereto as Schedule "A" and Schedule "B" hereto (the "Agreement").
2. That the Agreement between the Corporation and Maddox forming part of this By-Law are hereby approved.
3. That the Mayor and Clerk are hereby authorized and directed to execute the Agreement on behalf of the Corporation.
4. That this By-law shall come into force and take effect as of January 1, 2018.

READ A First, Second and Third time and passed this 9th day of April, 2018.

MAYOR

DEPUTY CLERK

SCHEDULE "A"

By-Law No. 17-18

RENEWAL AGREEMENT FOR MUNICIPAL INVESTIGATOR

THIS AGREEMENT made as of the 1st day of January, 2018.

BETWEEN:

THE CORPORATION OF THE TOWN OF AYLMER
(Hereinafter referred to as the "Municipality")

OF THE FIRST PART

AND:

JOHN G. MADDOX
(Hereinafter referred to as the "Independent Contractor")

OF THE SECOND PART

WHEREAS:

- (A) Section 239.2 of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended (the "Act"), when proclaimed in force, authorizes municipalities to appoint an investigator to investigate in an independent manner any complaint as to whether the Municipality has complied with the Act or a Municipal procedural by-law in respect of a meeting or part of a meeting that was closed to the public and to report on the investigation;
- (B) In appointing an investigator and in assigning powers and duties to him, a municipality is to have regard to, among other things:
 - i) the investigators independence and impartiality;
 - ii) confidentiality with respect to the investigator's activities;
 - iii) the credibility of the investigator's investigative process;
- (C) The Municipality is satisfied that the Independent Contractor has the skills and ability to meet the foregoing criteria.

NOW THEREFORE the parties agree as follows:

1. Services – The Municipality hereby retains and appoints the Independent Contractor as an Investigator for the purposes of Section 239.2(1) of the *Act* and the Independent Contractor agrees to provide such services for and at the request of the Municipality and accepts such appointment. The Independent Contractor confirms that services under this agreement will be carried out by John G. Maddox, except as otherwise delegated by John G. Maddox, which

delegation must be done with the consent of the Municipality.

2. Duties – The duties of the Independent Contractor shall be:
- i) to conduct investigations from time to time as requested by the Municipality upon receipt of a complaint ("Complaint") in respect of meetings or part of meetings that are closed to the public to determine compliance with the Act or the Municipal procedural by-law and to report on the results of such investigations;
 - ii) in conducting such investigations, to have regard to the importance of the matters listed above in recital (B);
 - iii) to proceed without undue delay and with due diligence to investigate a Complaint;
 - iv) to conduct each investigation in private;
 - v) to hear or obtain information from such persons as the Independent Contractor thinks fit and to make such inquiries as he thinks fit;
 - vi) to provide an opportunity to the Municipality or any person that may be adversely affected by a proposed report of the Independent Contractor, the opportunity to make representations respecting such report or recommendation;
 - vii) to preserve confidentiality and secrecy with respect to all matters that come to his knowledge in the course of performing duties hereunder, save and except disclosure of such matters as in the Independent Contractor's opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations;
 - viii) after making an investigation, to render his opinion as to whether or not the meeting or part of the meeting that was the subject matter of the investigation appears to have been closed to the public contrary to the Act or Municipal procedural by-law and, in either case, the Investigator shall report his opinion and the reasons for it to the Municipality and shall make such recommendations as he thinks fit.

In performing such duties, the Independent Contractor shall have the powers set out in Subsection 223.13(6) and Sections 223.14 to 223.18 of the Act.

3. Fees Hourly Rate –The Independent Contractor shall be paid a fee of ONE HUNDRED AND FIFTY DOLLARS (\$150.00) per hour plus applicable taxes during such time the Independent Contractor is performing his duties hereunder. The Independent Contractor agrees such rate shall be charged only for such time that the Independent Contractor is actively investigating a Complaint and preparing and presenting his report with respect thereto. The Independent Contractor would be entitled to be reimbursed other reasonable receipted expenses related to his duties, including food and hotel costs, car rental, kilometre rate at the respective municipal rate or railway tickets.
4. Term – The term of this Agreement ("Term") is for a one (1) year term commencing the effective date of the execution of this Agreement and ending on the first anniversary date thereof unless renewed and/or extended by agreement of all parties. The Independent Contractor or the Municipality shall

provide written notice prior to the end of the Term of its intention not to renew this Agreement if such renewal were to be available. Notwithstanding the above, the Town or the Independent Contractor shall have the right to terminate this Agreement by providing the other party with a minimum of thirty (30) days written notice of termination.

5. Taxes – All amounts payable to the Independent Contractor shall be paid without deduction. The Independent Contractor shall be responsible for any contributions imposed or required under employment insurance, health tax, social insurance, income tax laws, Worker's Compensation (if elected to enrol), pension with respect to any amounts paid to the Independent Contractor. The Municipality assumes no obligation or liability as between the parties to this Agreement to deduct or remit any statutory or government remittances.
6. Independent Contractor - The Independent Contractor is a contractor independent of the Municipality. Nothing herein shall be interpreted to create a relationship of employer/employee, partnership, franchise, agency or joint venture or other like arrangement.
7. Delegation – In the event more than one Complaint is made at any one time requiring more than one investigation, the Independent Contractor may determine that it is necessary to delegate some or all of his powers and duties, then he may do so in writing to any person other than a member of council, provided that the person to whom such delegation is made agrees in writing to be governed by the same duties of secrecy as the Independent Contractor and to abide by the terms and conditions of this Agreement. Such person shall always be under the supervision and direction of the Independent Contractor. Such delegation shall not be to a member of council or staff of any Municipality and shall not result in any additional costs or fees to the Municipality. Invoices shall be rendered by the Independent Contractor and payment made to the Independent Contractor and the Independent Contractor shall otherwise be responsible for the fees and disbursements of any his delegates.
8. Integrity Commissioner – The parties acknowledge that John G. Maddox and/or JGM Consulting shall no longer serve as the Municipality's Integrity Commissioner as of January 1, 2018.
9. Binding – This Agreement shall inure to the benefit of and bind the parties and their respective heirs, successors and permitted assigns.
10. Indemnification – The Municipality agrees to indemnify and save harmless the Independent Contractor, its agents and assigns, from and against any and all liabilities, losses, suits, claims, demands, damages, expenses, costs (including all legal costs), fines and actions of any kind or nature whatsoever arising out of or in connection with the Independent Contractor's provision of services and carrying out of its duties including, but not limited to, any alleged breach of this agreement, any procedural defect or other breach of relevant

statutory provisions.

- 11. Notice – Any notice required pursuant to this agreement shall be delivered to the respective parties hereto at the following addresses:

For the Town – Town of Aylmer, 46 Talbot Street West, Aylmer ON N5H 1J7

For Independent Contractor – #42 – 99 Edgevalley Road, London, Ontario N5Y 5N1

Any written notice between the parties hereto which specifically excludes any invoice rendered herein, shall be delivered or sent by pre-paid registered mail addressed to the parties at the respective addresses listed above. Notice shall be deemed to have been received on the date on which notice was delivered to the addresses designated or, in the case of mailing, on the fifth day after the date of mailing.

- 12. Entire Agreement – This Agreement contains the entire agreement between the parties and supersedes all previous negotiations, understandings and agreements, verbal or written with respect to any matters referred to in this Agreement.

IN WITNESS HEREOF, each of the parties hereto have set its hand and seal as of this 1st day of January, 2018.

**SIGNED, SEALED AND DELIVERED
THE CORPORATION OF THE TOWN OF AYLMER**

Mayor

Deputy Clerk

The Independent Contractor hereby accepts and agrees to the terms and conditions herein contained.

Witness

John G. Maddox

SCHEDULE "B"
By-Law No. 17 – 18

COMPLAINT FORM
MUNICIPAL INVESTIGATION

IN ACCORDANCE WITH
Section 239 of the *Municipal Act 2001*
(As Amended)

A FEE OF \$25.00 MUST ACCOMPANY THIS FORM PRIOR TO BEING PROCESSED.

PLEASE FORWARD COMPLETED FORMS TO:

John Maddox
#42 – 99 Edgevalley Road
London, Ontario N5Y 5N1

SUMMARY / COMMENTS

Date of signature

Signature of Complainant