




## Investment Policy Report – 20-09

**Report to:**

**Council  
Heather Adams, Administrator**

**Date:**

  
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**August 13, 2009**

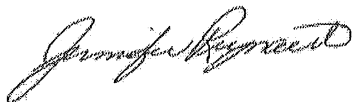
**From:**

**Jenny Reynaert, Director of Finance and  
Human Resources**

The Municipal Act, 2001 requires municipalities to adopt an investment policy even if excess funds are kept in a bank account and O. Reg. 438/97 outlines the types of investments a municipality may invest in. I have reviewed these documents and attended an Investment Seminar provided through Municipal Finance Officers Association (MFOA) and have the attached policy and supporting documents for Council's consideration.

I am recommending that Investment Policy 1.10 be supported by Council to provide staff direction regarding the investment of excess funds that may be held from time to time.

Respectfully submitted,



**Town of Aylmer**

**Subject:** Investment Policy

**Financial Control Policy**

**Policy #:** 1.10

**Date Approved:** To Be Determined

**Policy:** Investment Policy

**Purpose:** This policy establishes guidelines for municipal investments, as defined by and in compliance with the requirements of s. 418 to s. 420 of the Municipal Act, 2001 and of O.Reg. 438/97. The goals of this policy are to ensure compliance with legislation and to establish a reporting practice to council to provide a full disclosure of information relating to municipally held investments.

**Scope:** This Policy applies to the Treasury Department. This investment policy applies to any investment of the financial assets of the Town of Aylmer including Current, Capital, Reserve and Trust Funds.

**Responsibility:** The Treasurer is responsible for ensuring that all investments conform to legislation and this policy.

**Policy:** It is the policy of the Town of Aylmer to ensure;

- a) All investments are in compliance with O.Reg 438/97 and with s.418 to s.420 of the Municipal Act.
- b) Preservation of capital.
- c) Maintenance of liquidity
- d) Competitive return on investments

**Authorized Investments:**

The eligible securities are prescribed under O.Reg 438/97 attached as Schedule "A" to this policy. In addition, the Town of Aylmer further restricts investments to Guaranteed Investment Certificates, Bond Funds and Money Market Fund accounts. The Treasurer will attempt where possible to diversify the investments so that certificates are covered under the Bank of Canada Deposit Insurance Act, which has

a maximum insurance amount of \$100,000. These are deposits guaranteed or endorsed by;

- A bank listed in Schedule I, II or III to the Bank Act (Canada),
- A loan corporation or trust corporation registered under the Loan and Trust Corporations Act, or
- A credit union or league to which the Credit Unions and Caisses Populaires Act, 1994 applies.

**Currency:** The Town shall not invest in a security that is expressed or payable in any currency other than Canadian Dollars. O. Reg. 438/97, s. 6 (1).

**Reporting:** The Treasurer or designate has a specific responsibility to prepare and provide an annual investment report to Council. O. Reg. 438/97, s.8 (1). This report shall contain the following information:

- A statement about the performance of the portfolio of investments during the period covered by the report.
- A description of the total investments that are invested in long-term and short-term securities.
- A statement of assurance by the Treasurer that investments were made in accordance with the policy adopted by council.

**Authority:** Authority to invest public funds is derived from section 418 to section 420 of the Municipal Act, 2001. The Town of Aylmer adopted a Delegation of Power Policy under By-Law 54-07 and this delegation complies with that policy. Under this authority, responsibility for the investment program of the municipality is hereby delegated to the Treasurer.

**Municipal Act, 2001**  
**Loi de 2001 sur les municipalités**

**ONTARIO REGULATION 438/97**

*formerly under Municipal Act*

**ELIGIBLE INVESTMENTS AND RELATED FINANCIAL AGREEMENTS**

Consolidation Period: From February 12, 2007 to the e-Laws currency date.

Last amendment: O. Reg. 39/07.

*This Regulation is made in English only.*

1. A municipality does not have the power to invest under section 418 of the Act in a security other than a security prescribed under this Regulation. O. Reg. 438/97, s. 1; O. Reg. 399/02, s. 1.

2. The following are prescribed, for the purposes of subsection 418 (1) of the Act, as securities that a municipality may invest in:

1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by,

- i. Canada or a province or territory of Canada,
- ii. an agency of Canada or a province or territory of Canada,
- iii. a country other than Canada,
- iv. a municipality in Canada including the municipality making the investment,
- iv.1 the Ontario Strategic Infrastructure Financing Authority,
- v. a school board or similar entity in Canada,

v.1 a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,

v.2 the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*,

vi. a local board as defined in the *Municipal Affairs Act* (but not including a school board or a municipality) or a conservation authority established under the *Conservation Authorities Act*,

vi.1 a board of a public hospital within the meaning of the *Public Hospitals Act*,

vi.2 a non-profit housing corporation incorporated under section 13 of the *Housing Development Act*,

vi.3 a local housing corporation as defined in section 2 of the *Social Housing Reform Act, 2000*, or

vii. the Municipal Finance Authority of British Columbia.

2. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if,

i. the bond, debenture or other evidence of indebtedness is secured by the assignment, to a trustee, as defined in the *Trustee Act*, of payments that Canada or a province or territory of Canada has agreed to make or is required to make under a federal, provincial or territorial statute, and

ii. the payments referred to in subparagraph i are sufficient to meet the amounts payable under the bond, debenture or other evidence of indebtedness, including the amounts payable at maturity.

3. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid no later than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,

i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada),

ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*, or

iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.

- 3.1 Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,
  - i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada),
  - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*,
  - iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
4. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by an institution listed in paragraph 3.
5. Short term securities, the terms of which provide that the principal and interest shall be fully repaid no later than three days after the day the investment was made, that are issued by,
  - i. a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,
  - ii. the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, or
  - iii. a board of a public hospital within the meaning of the *Public Hospitals Act*.
6. Bonds, debentures, promissory notes, other evidence of indebtedness or other securities issued or guaranteed by the International Bank for Reconstruction and Development.
- 6.1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by a supranational financial institution or a supranational governmental organization, other than the International Bank for Reconstruction and Development.
7. Asset-backed securities, as defined in subsection 50 (1) of Regulation 733 of the Revised Regulations of Ontario, 1990 made under the *Loan and Trust Corporations Act*.
- 7.1 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than five years after the date on which the municipality makes the investment.
- 7.2 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than one year and no later than five years after the date on which the municipality makes the investment.
8. Negotiable promissory notes or commercial paper, other than asset-backed securities, maturing one year or less from the date of issue, if that note or commercial paper has been issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
- 8.1 Shares issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
9. Bonds, debentures, promissory notes and other evidences of indebtedness of a corporation incorporated under section 142 of the *Electricity Act, 1998*.
10. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if the municipality first acquires the bond, debenture, promissory note or other evidence of indebtedness as a gift in a will and the gift is not made for a charitable purpose.
11. Securities of a corporation, other than those described in paragraph 10, if the municipality first acquires the securities as a gift in a will and the gift is not made for a charitable purpose.
12. Shares of a corporation if,
  - i. the corporation has a debt payable to the municipality,
  - ii. under a court order, the corporation has received protection from its creditors,
  - iii. the acquisition of the shares in lieu of the debt is authorized by the court order, and
  - iv. the treasurer of the municipality is of the opinion that the debt will be uncollectable by the municipality unless the debt is converted to shares under the court order. O. Reg. 438/97, s. 2; O. Reg. 265/02, s. 1; O. Reg. 399/02, s. 2; O. Reg. 655/05, s. 2; O. Reg. 607/06, s. 1; O. Reg. 39/07, s. 1.
3. (1) A municipality shall not invest in a security under subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 or paragraph 3.1 or 4 of section 2 unless the bond, debenture, promissory note or evidence of indebtedness is rated,
  - (a) REVOKED: O. Reg. 265/02, s. 2 (1).
  - (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;

Schedule "A" to Town of Aylmer Investment Policy 1.10

- (b.1) by Fitch Ratings as "AA-" or higher;
- (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
- (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 3 (1); O. Reg. 265/02, s. 2 (1); O. Reg. 399/02, s. 3 (1); O. Reg. 655/05, s. 3 (1, 2); O. Reg. 607/06, s. 2; O. Reg. 39/07, s. 2.
- (2) REVOKED: O. Reg. 655/05, s. 3 (3).
- (2.1) A municipality shall not invest in a security under paragraph 6.1 of section 2 unless the security is rated,
  - (a) by Dominion Bond Rating Service Limited as "AAA";
  - (b) by Fitch Ratings as "AAA";
  - (c) by Moody's Investors Services Inc. as "Aaa"; or
  - (d) by Standard and Poor's as "AAA". O. Reg. 655/05, s. 3 (4).
- (3) A municipality shall not invest in an asset-backed security under paragraph 7 of section 2 that matures more than one year from the date of issue unless the security is rated,
  - (a) by Dominion Bond Rating Service Limited as "AAA";
- (a.1) by Fitch Ratings as "AAA";
- (b) by Moody's Investors Services Inc. as "Aaa"; or
- (c) by Standard and Poor's as "AAA". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (2); O. Reg. 655/05, s. 3 (5).
- (4) A municipality shall not invest in an asset-backed security under paragraph 7 of section 2 that matures one year or less from the date of issue unless the security is rated,
  - (a) by Dominion Bond Rating Service Limited as "R-1(high)";
- (a.1) by Fitch Ratings as "F1+";
- (b) by Moody's Investors Services Inc. as "Prime-1"; or
- (c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (3); O. Reg. 655/05, s. 3 (6).
- (4.1) A municipality shall not invest in a security under paragraph 7.1 of section 2 unless the security is rated,
  - (a) by Dominion Bond Rating Service Limited as "A" or higher;
  - (b) by Fitch Ratings as "A" or higher;
  - (c) by Moody's Investors Services Inc. as "A2"; or
  - (d) by Standard and Poor's as "A". O. Reg. 655/05, s. 3 (7).
- (4.2) A municipality shall not invest in a security under paragraph 7.2 of section 2 unless the security is rated,
  - (a) by Dominion Bond Rating Service Limited as "AA(low)" or higher;
  - (b) by Fitch Ratings as "AA-" or higher;
  - (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
  - (d) by Standard and Poor's as "AA-" or higher. O. Reg. 655/05, s. 3 (7).
- (5) A municipality shall not invest in a security under paragraph 8 of section 2 unless the promissory note or commercial paper is rated,
  - (a) by Dominion Bond Rating Service Limited as "R-1(mid)" or higher;
- (a.1) by Fitch Ratings as "F1+";
- (b) by Moody's Investors Services Inc. as "Prime-1"; or
- (c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (4); O. Reg. 655/05, s. 3 (8).
- (6) If an investment made under paragraph 7 or 8 of section 2 falls below the standard required under subsection (3), (4) or (5), as the case may be, the municipality shall sell the investment within 30 days after the day the investment falls below the standard. O. Reg. 265/02, s. 2 (2).
- (7) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made and as long as it continues, the investment ranks, at a minimum, concurrently and equally in respect of payment of principal and interest with all unsecured debt of the corporation. O. Reg. 265/02, s. 2 (2).
- (8) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made, the total amount of the municipality's investment in debt of any corporation incorporated under section 142 of the *Electricity Act*,

1998 that would result after the proposed investment is made does not exceed the total amount of investment in debt, including any interest accrued on such debt, of the municipality in such a corporation that existed on the day before the day the proposed investment is to be made. O. Reg. 265/02, s. 2 (2).

(9) Any investment made under paragraph 9 of section 2, including any refinancing, renewal or replacement thereof, may not be held for longer than a total of 10 years from the date such investment is made. O. Reg. 265/02, s. 2 (2).

(10) Subsections (7), (8) and (9) do not prevent a municipality from holding or disposing of a security described in paragraph 9 of section 2 issued by a corporation incorporated under section 142 of the *Electricity Act, 1998*, if the municipality acquired the security through a transfer by-law or otherwise under that Act. O. Reg. 655/05, s. 3 (9).

(11) A municipality shall sell an investment described in paragraph 10 or 11 of section 2 within 90 days after ownership of the investment vests in the municipality. O. Reg. 655/05, s. 3 (9).

(12) If an investment described in subsection (1), (2.1), (4.1) or (4.2) falls below the standard required by the subsection, the municipality shall sell the investment within 90 days after the day the investment falls below the standard. O. Reg. 655/05, s. 3 (9).

4. (1) A municipality shall not invest more than 25 per cent of the total amount in all sinking and retirement funds in respect of debentures of the municipality, as estimated by its treasurer on the date of the investment, in short-term debt issued or guaranteed by the municipality. O. Reg. 438/97, s. 4 (1).

(2) In this section,

“short-term debt” means any debt, the terms of which provide that the principal and interest of the debt shall be fully repaid no later than 364 days after the debt is incurred. O. Reg. 438/97, s. 4 (2).

4.1 (1) A municipality shall not invest in a security under paragraph 7 of section 2 or in a promissory note or commercial paper under paragraph 8 of section 2 unless, on the date that the investment is made,

(a) the municipality itself is rated, or all of the municipality’s long-term debt obligations are rated,

(i) by Dominion Bond Rating Service Limited as “AA(low)” or higher,

(i.1) by Fitch Ratings as “AA-” or higher,

(ii) by Moody’s Investors Services Inc. as “Aa3” or higher, or

(iii) by Standard and Poor’s as “AA-” or higher; or

(b) the municipality has entered into an agreement with the Local Authority Services Limited and the CHUMS Financing Corporation to act together as the municipality’s agent for the investment in that security, promissory note or commercial paper. O. Reg. 265/02, s. 3; O. Reg. 399/02, s. 4; O. Reg. 655/05, s. 4 (1, 2).

(1.1) A municipality shall not invest in a security under paragraph 7.1 or 8.1 of section 2 unless, on the date the investment is made, the municipality has entered into an agreement with the Local Authority Services Limited and the CHUMS Financing Corporation to act together as the municipality’s agent for the investment in the security. O. Reg. 655/05, s. 4 (3).

(1.2) Subsection (1.1) does not apply to investments in securities by the City of Ottawa if all of the following requirements are satisfied:

1. Only the proceeds of the sale by the City of its securities in a corporation incorporated under section 142 of the *Electricity Act, 1998* are used to make the investments.

2. The investments are made in a professionally-managed fund.

3. The terms of the investments provide that,

i. where the investment is in debt instruments, the principal must be repaid no earlier than seven years after the date on which the City makes the investment, and

ii. where the investment is in shares, an amount equal to the principal amount of the investment cannot be withdrawn from the fund for at least seven years after the date on which the City makes the investment.

4. The City establishes and uses a separate reserve fund for the investments.

5. Subject to paragraph 6, the money in the reserve fund, including any returns on the investments or proceeds from their disposition, are used to pay capital costs of the City and for no other purpose.

6. The City may borrow money from the reserve fund but must repay it plus interest. O. Reg. 655/05, s. 4 (3).

(2) The investment made under clause (1) (b) or described in subsection (1.1), as the case may be, must be made in the public sector group of funds of the Local Authority Services Limited and the CHUMS Financing Corporation with,

(a) another municipality;

(b) a public hospital;

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- (c) a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*;
- (d) the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
- (e) a school board; or
- (f) any agent of an institution listed in clauses (a) to (d). O. Reg. 265/02, s. 3; O. Reg. 655/05, s. 4 (4); O. Reg. 607/06, s. 3.

5. A municipality shall not invest in a security issued or guaranteed by a school board or similar entity unless,

(a) the money raised by issuing the security is to be used for school purposes; and

(b) REVOKED: O. Reg. 248/01, s. 1.

O. Reg. 438/97, s. 5; O. Reg. 248/01, s. 1.

6. (1) A municipality shall not invest in a security that is expressed or payable in any currency other than Canadian dollars. O. Reg. 438/97, s. 6 (1).

(2) Subsection (1) does not prevent a municipality from continuing an investment, made before this Regulation comes into force, that is expressed and payable in the currency of the United States of America or the United Kingdom. O. Reg. 438/97, s. 6 (2).

7. (1) Before a municipality invests in a security prescribed under this Regulation, the council of the municipality shall, if it has not already done so, adopt a statement of the municipality's investment policies and goals. O. Reg. 438/97, s. 7.

(2) In preparing the statement of the municipality's investment policies and goals under subsection (1), the council of the municipality shall consider,

(a) the municipality's risk tolerance and the preservation of its capital;

(b) the municipality's need for a diversified portfolio of investments; and

(c) obtaining legal advice and financial advice with respect to the proposed investments. O. Reg. 265/02, s. 4.

(3) REVOKED: O. Reg. 655/05, s. 5.

(4) In preparing the statement of the municipality's investment policies and goals under subsection (1) for investments made under paragraph 9 of section 2, the council of the municipality shall consider its plans for the investment and how the proposed investment would affect the interest of municipal taxpayers. O. Reg. 265/02, s. 4.

8. (1) If a municipality has an investment in a security prescribed under this Regulation, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council, each year or more frequently as specified by the council, an investment report. O. Reg. 438/97, s. 8 (1).

(2) The investment report referred to in subsection (1) shall contain,

(a) a statement about the performance of the portfolio of investments of the municipality during the period covered by the report;

(b) a description of the estimated proportion of the total investments of a municipality that are invested in its own long-term and short-term securities to the total investment of the municipality and a description of the change, if any, in that estimated proportion since the previous year's report;

(c) a statement by the treasurer as to whether or not, in his or her opinion, all investments are consistent with the investment policies and goals adopted by the municipality;

(d) a record of the date of each transaction in or disposal of its own securities, including a statement of the purchase and sale price of each security; and

(e) such other information that the council may require or that, in the opinion of the treasurer, should be included. O. Reg. 438/97, s. 8 (2); O. Reg. 655/05, s. 6.

(3) Upon disposition of any investment made under paragraph 9 of section 2, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council a report detailing the proposed use of funds realized in the disposition. O. Reg. 265/02, s. 5.

8.1 If an investment made by the municipality is, in the treasurer's opinion, not consistent with the investment policies and goals adopted by the municipality, the treasurer shall report the inconsistency to the council of the municipality within 30 days after becoming aware of it. O. Reg. 655/05, s. 7.

9. (1) Despite this Regulation, an investment by a municipality in bonds, debentures or other indebtedness of a corporation made before March 6, 1997 may be continued if the bond, debenture or other indebtedness is rated,

(a) REVOKED: O. Reg. 265/02, s. 6.



- (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;
  - (b.1) by Fitch Ratings as "AA-" or higher;
  - (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
  - (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 9 (1); O. Reg. 265/02, s. 6; O. Reg. 399/02, s. 5; O. Reg. 655/05, s. 8.
- (2) If the rating of an investment continued under subsection (1) falls below the standard required by that subsection, the municipality shall sell the investment within 90 days after the day the investment falls below the standard. O. Reg. 438/97, s. 9 (2).

#### FORWARD RATE AGREEMENTS

10. (1) A municipality that enters into an agreement to make an investment on a future date in a security prescribed by section 2 may enter one or more forward rate agreements with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) in order to minimize the cost or risk associated with the investment because of fluctuations in interest rates. O. Reg. 655/05, s. 9.

(2) A forward rate agreement shall provide for the following matters:

1. Specifying a forward amount, which is the principal amount of the investment or that portion of the principal amount to which the agreement relates.
2. Specifying a settlement day, which is a specified future date.
3. Specifying a forward rate of interest, which is a notional rate of interest applicable on the settlement day.
4. Specifying a reference rate of interest, which is the market rate of interest payable on a specified future date on an acceptance issued by a bank listed in Schedule I, II or III to the *Bank Act* (Canada).
5. Requiring a settlement payment to be payable on the settlement day if the forward rate and the reference rate of interest are different. O. Reg. 655/05, s. 9.

(3) A municipality shall not enter a forward rate agreement if the forward amount described in paragraph 1 of subsection (2) for the investment whose cost or risk the agreement is intended to minimize, when added to all forward amounts under other forward rate agreements, if any, relating to the same investment, would exceed the total amount of the principal of the investment. O. Reg. 655/05, s. 9.

(4) A municipality shall not enter a forward rate agreement unless the settlement day under the agreement is within 12 months of the day on which the agreement is executed. O. Reg. 655/05, s. 9.

(5) A municipality shall not enter a forward rate agreement if the settlement payment described in paragraph 5 of subsection (2) exceeds the difference between the amount of interest that would be payable on the forward amount calculated at the forward rate of interest for the period for which the investment was made and the amount that would be payable calculated at the reference rate of interest. O. Reg. 655/05, s. 9.

(6) A municipality shall not enter a forward rate agreement except with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) and only if the bank's long-term debt obligations on the day the agreement is entered are rated,

- (a) by Dominion Bond Rating Service as "A(high)" or higher;
- (b) by Fitch Ratings as "A+" or higher;
- (c) by Moody's Investors Service Inc. as "A1" or higher; or
- (d) by Standard and Poor's as "A+" or higher. O. Reg. 655/05, s. 9.

11. (1) Before a municipality passes a by-law authorizing a forward rate agreement, the council of the municipality shall adopt a statement of policies and goals relating to the use of forward rate agreements. O. Reg. 655/05, s. 9.

(2) The council of the municipality shall consider the following matters when preparing the statement of policies and goals:

1. The types of investments for which forward rate agreements are appropriate.
2. The fixed costs and estimated costs to the municipality resulting from the use of such agreements.
3. A detailed estimate of the expected results of using such agreements.
4. The financial and other risks to the municipality that would exist with, and without, the use of such agreements.
5. Risk control measures relating to such agreements, such as,
  - i. credit exposure limits based on credit ratings and on the degree of regulatory oversight and the regulatory capital of the other party to the agreement,
  - ii. standard agreements, and

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iii. ongoing monitoring with respect to the agreements. O. Reg. 655/05, s. 9.

12. (1) If a municipality has any subsisting forward rate agreements in a fiscal year, the treasurer of the municipality shall prepare and present to the municipal council once in that fiscal year, or more frequently if the council so desires, a detailed report on all of those agreements. O. Reg. 655/05, s. 9.

(2) The report must contain the following information and documents:

1. A statement about the status of the forward rate agreements during the period of the report, including a comparison of the expected and actual results of using the agreements.
2. A statement by the treasurer indicating whether, in his or her opinion, all of the forward rate agreements entered during the period of the report are consistent with the municipality's statement of policies and goals relating to the use of forward rate agreements.
3. Such other information as the council may require.
4. Such other information as the treasurer considers appropriate to include in the report. O. Reg. 655/05, s. 9.

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BY-LAW NO. 54-07

OF THE CORPORATION OF THE TOWN OF AYLMER

Being a by-law to adopt the  
Delegation of Powers Policy

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WHEREAS, effective January 1, 2008, Sections 23.1 and 270(1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority;

AND WHEREAS, the Council of the Corporation of the Town of Aylmer deems it appropriate to adopt a Delegation of Powers Policy;

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

1. That Council hereby adopts the Delegation of Powers By-law for the Town of Aylmer, attached as Schedule "A", and forming part of this by-law:
2. That this By-law shall come into full force and effect as of the date of its final passing.

READ A First and Second time this 17th day of December, 2007.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

READ A Third time and finally passed this 17th day of December, 2007.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CLERK

## THE CORPORATION OF THE TOWN OF AYLMER

### DELEGATION OF POWERS POLICY

Adopted November 26, 2007

BY-LAW 54-07 Dec 17 2007

**PURPOSE:** The *Municipal Act, 2001* requires that all municipalities adopt and maintain a policy with respect to the delegation of Council's legislative and administrative authority. This policy outlines what Council should consider before any delegation of some of its powers and duties and the requirements, conditions and restrictions for Council to authorize any delegation.

The purpose of this policy is to set out the scope of the powers and duties which Council may delegate its legislative and administrative authority and to establish principles governing such delegation. This policy applies to all committees of Council, departments and staff.

#### POLICY STATEMENT

The Council of the Town of Aylmer, as a duly elected municipal government is directly accountable to its constituents for its legislative decision making, policies and administrative functions. Council's decisions are generally expressed by by-law or resolution of Council carried by a majority vote.

The efficient management of the municipal corporation and the need to respond to issues in a timely fashion require Council to entrust certain powers and duties to committees and staff while concurrently maintaining accountability, which can be effectively accomplished through the delegation of legislative and administrative functions. Council authority will be delegated within the context and in accordance with the requirements outlined in the *Municipal Act*.

#### IMPLEMENTATION PROCEDURE

Council may delegate its powers and duties under the *Municipal Act*, the *Planning Act*, a private Act relating to the municipality and such other Acts as may be prescribed to a person or body subject to the restrictions as set out in this Policy and the legislative requirements of the *Municipal Act*.

#### Administrative Powers and Duties:

**Definition:** Includes all matters required for the management of the corporation which do not involve discretionary decision making.

1. Council may delegate any of its administrative powers and duties.
2. In order for Council to authorize the delegation of any of its administrative powers and duties, it shall first approve the conditions and limitations of the delegation by the approval of a by-law.
3. Council shall approve policy and procedures for the delegation which includes measures for the monitoring and accountability of the delegate and the transparency of the delegate's actions and decisions.

4. Any delegation of administrative powers may be subject to any regulation made by the Minister of Municipal Affairs and Housing or by the Lieutenant Governor in Council.

#### **Legislative and Quasi-Judicial Powers:**

**Definition:** Includes all matters where council acts in a legislative or quasi judicial function including enacting by-laws, setting policies and exercising decision making authority

1. Legislative and quasi-judicial powers can only be delegated to the following:
  - One or more members of municipal council
  - A body that has at least 2 members, of which 50% are council members, council appointees, or combination
  - An officer, employee or agent of the municipality (if the power delegated is of a "minor nature")
2. Council shall approve the conditions and limitations for the delegation of any of its legislative and quasi-judicial powers by the adoption of a by-law.
3. Council shall approve policy and procedures for the delegation which includes measures for the monitoring and accountability of the delegate and the transparency of the delegate's actions and decisions.
4. Council shall only delegate legislative and quasi-judicial powers to an officer, employee or agent of the municipality which are minor in nature which is clearly defined within the policy and procedures authorizing the said delegation. Council, in determining whether or not a power is of a minor nature, should consider a number of factors as well as the number of people, the size of the geographic area and the time period affected by an exercise of the power.
5. The delegation of legislative and quasi-judicial powers of Council are restricted to powers found in the Municipal Act, the Planning Act, a private act relating to the municipality and "such other Acts as may be prescribed."
6. No delegation of legislative or quasi-judicial powers to a corporation is permitted.
7. Any delegation of legislative or quasi-judicial powers may be subject to any regulation made by the Minister of Municipal Affairs and Housing.

#### **Scope of Power:**

1. A delegation may be revoked at any time without notice unless the delegation by-law specifically limits the municipality's power to revoke the delegation.
2. A delegation shall not limit the right to revoke the delegation beyond the term of the council which made the delegation.
3. A delegation may provide that only the delegate can exercise the delegated power or that both the municipality and the delegate can exercise the power.
4. A delegation or deemed delegation under Item 6 below of a duty results in the duty being a joint duty of the municipality and the delegate.

5. A delegation may be made subject to such conditions and limits as the council considers appropriate. Council shall outline the procedures that the delegate is required to follow and specific measures for accountability of the delegate and the transparency of the delegate's actions.
6. Where a power is delegated, the power is deemed to be delegated subject to any limits on the power and to any procedural requirements, including conditions, approvals and appeals which apply to the power and any duties related to the power are deemed to be delegated with the power.

#### **Restrictions of Delegation of Legislative & Quasi –Judicial Powers:**

1. Council is not authorized to delegate any of the following powers and duties:
  - To appoint or remove from office statutory officers of the municipality
  - To pass a by-law and deal with issues regarding taxes (Parts VIII, IX & X of the Municipal Act, 2001)
  - To incorporate corporations
  - To adopt an official plan or an amendment to an official plan under the Planning Act
  - To pass a zoning by-law under the Planning Act
  - To pass a by-law related to small business counseling & municipal capital facilities
  - To adopt a community improvement plan
  - To adopt or amend the municipal budget
  - Any other power that may be prescribed

#### **Delegation - Hearings Application**

1. This section applies when a municipality is required by law to hold a hearing or provide an opportunity to be heard before making a decision or taking a step, whether the requirement arises from an Act or from any other source of law.
2. If Council delegates to a person or body the power or duty to hold a hearing or provide an opportunity to be heard before the decision is made or the step taken, but does not delegate the power to make the decision or take the step, the following rules apply:
  - (a) If the person or body holds the hearing or provides the opportunity to be heard, the municipality is not required to do so.
  - (b) If the decision or step constitutes the exercise of a statutory power of decision to which *The Statutory Powers Procedure Act* applies, that Act, except sections 17, 17.1, 18 and 19, applies to the person or body and to the hearing conducted by the person or body.

#### **Appeal Body**

1. Council may establish an appeal body to hear appeals or review decisions made under any delegated power, if it deems necessary.
2. Before an Appeal Body is established, Council shall determine procedures, powers & rules of those conducting the appeals to be approved in a By-law establishing the Appeal Body.