

# **The Corporation of the Town of Arnprior**

## **By-Law No. 7545-24**

A By-law to adopt a by-law authorizing an agreement to retain and appoint Cunningham, Swam, Carty, Little and Bonham LLP as Integrity Commissioner and Closed Meeting Investigator for the Town of Arnprior.

**Whereas** Council of the Corporation of the Town of Arnprior is authorized, pursuant to Section 223.3 (1) of the *Municipal Act, 2001* (the *Act*), as amended, to appoint an integrity commissioner (the “Integrity Commissioner”), whose function is to investigate in an independent and confidential manner, a complaint made to them by any person, as to whether a member of council or a member of a local board has complied with the Code of Conduct, or other ethics-related policies, rules or procedures, and to report on the investigation; and

**Whereas** the *Act* has been amended to include additional powers of Integrity Commissioners, including the function to investigate as to whether a member of Council or a member of a local board has complied with the *Municipal Conflict of Interest Act*, effective March 1, 2019; and

**Whereas** Section 239 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended authorizes a municipality to appoint an investigator who has the function to investigate, in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 of a procedure by-law under section 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation; and

**Whereas** By-law No. 7119-20, which appointed the Town’s current Integrity Commissioner and Closed Meeting Investigator, expires on December 31, 2024 and the Town has completed a procurement process in accordance with the Town’s Procurement By-Law to determine its options for these services for the next four-year appointment term; and

**Whereas** the Integrity Commissioner has represented, and the Town of Arnprior is satisfied, that the Integrity Commissioner has the skills and abilities necessary to perform the role of the Integrity Commissioner and Closed Meeting Investigator; and

**Whereas** Arnprior wishes to enter into a contract with Cunningham, Swam, Carty, Little and Bonham LLP as an independent Integrity Commissioner and Closed Meeting Investigator for the municipality to provide services in accordance with the *Municipal Act, 2001*, for all requests for an investigation of an alleged breach of Code of Conduct by a Member of Council or Board of the municipality; and to

provide the Closed Meeting Investigator services in accordance with the *Municipal Act, 2001*, for all requests for an investigation in respect of a meeting or part of a meeting that was closed to the public;

**Therefore** the Council of the Corporation of the Town of Arnprior enacts as follows:

1. **That** Cunningham, Swam, Carty, Little and Bonham LLP is hereby appointed to the position of Integrity Commissioner and Closed Meeting Investigator for the Town of Arnprior pursuant to section 223.3 and section 239.2 of the Municipal Act effective January 1<sup>st</sup>, 2025 until December 31<sup>st</sup>, 2028.
2. **That** the Mayor and Clerk execute the Agreement between Cunningham, Swam, Carty, Little and Bonham LLP and the Corporation of the Town of Arnprior, attached as Appendix A and forming part of this by-law.
3. **That** By-Law No. 7119-20, By-Law No. 7447-23 and any by-laws, resolutions or parts of by-law or resolutions inconsistent with this by-law are hereby repealed.
4. **That** a vote of two-thirds of all Members be required to amend or repeal this by-law.
5. **That** this by-law shall come into force and effect on the day of its passing.

**Enacted and Passed** this 9<sup>th</sup> day of December, 2024.



Lisa McGee, Mayor



Kaila Zamojski, Town Clerk

This Agreement Made This 9th day of December, 2024

**Between:**

**The Corporation of the Town of Arnprior**

(hereinafter referred to as "Arnprior")

- and -

**Cunningham, Swam, Carty, Little and Bonham LLP**

(hereinafter referred to as the "Consultant")

**Whereas** Arnprior is authorized, pursuant to Subsection 223.3 of the *Municipal Act, 2001* (the *Act*), as amended, to appoint an integrity commissioner (the "Integrity Commissioner") who has the function to investigate in an independent and confidential manner, a complaint made to him by any person, as to whether a member of council or a member of a local board has complied with the Code of Conduct, or other ethics-related policies, rules or procedures, and to report on the investigation; and

**Whereas** the *Act* has been amended to include additional powers of Integrity Commissioners, including the function to investigate as to whether a member of Council or a member of a local board has complied with the *Municipal Conflict of Interest Act*, effective March 1, 2019; and

**Whereas** Section 239 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended authorizes a municipality to appoint an investigator who has the function to investigate, in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 of a procedure by-law under section 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation; and

**Whereas**, the Consultant has represented, and Arnprior is satisfied, that the Consultant has the skills and abilities necessary to perform the role of the Integrity Commissioner and Closed Meeting Investigator; and

**Whereas**, Arnprior wishes to retain Cunningham, Swam, Carty, Little and Bonham LLP as an independent Integrity Commissioner and Closed Meeting Investigator for the municipality;

**Now Therefore**, in consideration of the covenants, terms and conditions contained herein, Arnprior and the Consultant agree as follows:

## **Powers and Duties**

1. Pursuant to section 239.1 of the *Municipal Act, 2001*, Arnprior hereby retains and appoints Cunningham, Swam, Carty, Little and Bonham LLP as an Integrity Commissioner and Closed Meeting Investigator and the Consultant accepts such appointment and agrees to carry out the responsibility of the Integrity Commissioner and Closed Meeting Investigator, as more specifically described in the Statement of Duties and Responsibilities, attached as Schedule "A" to this Agreement, during the term of this Agreement. The Consultant shall have all the powers set out in Section 223.3 and section 239.2 of the *Municipal Act, 2001*, as amended from time to time.

## **Term of Agreement**

2. The Consultant's appointment pursuant to this Agreement is effective on January 1<sup>st</sup>, 2025 and will continue until December 31<sup>st</sup>, 2028 or such further time as agreed:
  - a. Arnprior may be released from the Agreement at any time with ninety (90) days written notice.
  - b. The Consultant shall provide ninety (90) days written notice to Arnprior of their intention to resign as the Integrity Commissioner and Closed Meeting Investigator and their resignation shall only be effective at the expiry of the notice period.

## **Records**

3. All records are the property of Arnprior and the records and should be submitted to the Town Clerk associated with the municipal record upon termination of the contract.

## **Renewal**

4. The Consultant's appointment pursuant to this Agreement may be renewed for a time acceptable to the Parties, on the mutual agreement of the Parties.

## **Compensation**

5. The Consultant will not require an annual retainer and will provide services on an as-needed basis.
6. Arnprior agrees to pay to the Consultant an hourly fee, as set out in the proposal of services, outlined below:
  - a. Two Hundred and Ninety-Five Dollars (\$295.00) per hour for work undertaken by Tony Fleming, plus applicable taxes, during such time

that the Consultant is actively carrying out the duties pursuant to this Agreement.

- b. Two Hundred and Forty-Five Dollars (\$245.00) per hour for work undertaken by James McCarthy, plus applicable taxes, during such time that the Consultant is actively carrying out the duties pursuant to this Agreement.
  - c. Two Hundred Dollars (\$200.00) per hour for work undertaken by Michael McKitrick, plus applicable taxes, during such time that the Consultant is actively carrying out the duties pursuant to this Agreement.
  - d. Ninety Dollars (\$90.00) per hour for work undertaken by Legal Assistants, plus applicable taxes, during such time that the Consultant is actively carrying out the duties pursuant to this Agreement.
  - e. The Consultant can rely on other members of the firm, as appropriate, and ensure that the work is performed by only those members of the firm with the skill to undertake the work at the most appropriate hourly rate.
  - f. The Consultant shall provide Arnprior with a monthly invoice detailing the hours worked and expenses incurred for the period in question.
7. Arnprior agrees to reimburse the Consultant for all reasonable expenses and disbursements, including mileage at a rate of 0.65 per kilometres (or any agreed upon flat rate), incurred by the Consultant which are necessary to enable the Integrity Commissioner and Closed Meeting Investigator to perform their duties pursuant to this Agreement. All such expenses must be supported by appropriate receipts.

### **Consultant Status**

8. In performing their duties and responsibilities as Integrity Commissioner and Closed Meeting Investigator pursuant to this Agreement, it is recognized that the Consultant is independent of Arnprior and its administration and the Consultant shall report directly to Arnprior's Council.
9. The Consultant acknowledges that they are an independent contractor and shall not be deemed an employee of Arnprior, for any purpose. The Consultant further acknowledges that, as an independent contractor, they will not be entitled to any employment-related benefit, including such benefits that are applicable to employees of Arnprior and partnering municipalities.
10. In light of the Consultant's status as an independent contractor, Arnprior shall have no responsibility whatsoever with regard to any income taxes or any other

remittances which may be payable by the Consultant on the fees paid under this Agreement. Arnprior assume no obligation or liability to deduct or remit any statutory or government remittances.

### **Confidential Information**

11. The Consultant acknowledges that Arnprior is an institution for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). Accordingly, the Consultant undertakes not to disclose information subject to the MFIPPA except as may be necessary in the proper discharge of their duties and responsibilities pursuant to the terms of this Agreement and in accordance with the MFIPPA. This Article shall survive the termination of this Agreement.

### **Delegation**

12. The Consultant shall not assign or sublet the whole or any part of this Agreement without the prior consent of Arnprior.

### **Insurance**

13. The Consultant shall, at their own expense, obtain and keep in force during the term of the Agreement, Commercial General Liability Insurance satisfactory to the Town of Arnprior and underwritten by an insurer licensed to conduct business in the Province of Ontario. The policy shall provide coverage for Bodily Injury, Property Damage and Personal Injury and shall include but not be limited to:
  - (a) A limit of liability of not less than \$2,000,000 per occurrence with an aggregate of not less than \$2,000,000;
  - (b) Add the Corporation of the Town of Arnprior as an additional insured with respect to the operations of the Named Insured;
  - (c) The policy shall contain a provision for cross liability and severability of interest in respect of the Named Insured;
  - (d) Products and completed operations coverage;
  - (e) Broad Form Property Damage;
  - (f) Contractual Liability;
  - (g) Owners and Contractors Protective;
  - (h) The policy shall provide 30 days prior notice of cancellation.

## Indemnity

14. Arnprior hereby agrees to indemnify and save harmless the Consultant and their delegates from and against any and all liabilities, losses, expenses, costs (including legal costs), demands, damages, suits, judgments, penalties, expenses and liabilities of any kind or nature whatsoever arising out of the carrying out by the Integrity Commissioner and Closed Meeting Investigator and their delegates in good faith of their duties and responsibilities under this Agreement including, but not limited to, any alleged breach of this Agreement, any procedural defect or other breach of the relevant statutory provisions.
15. The parties agree that Cunningham, Swam, Carty, Little and Bonham LLP shall not be liable for any claim or loss arising from or in relation to the functions provided by the Integrity Commissioner and Closed Meeting Investigator except that which would be incurred by the Consultant if sitting in court as a judge of the Superior Court of Ontario under the *Courts of Justice Act* of Ontario. The parties otherwise release and indemnify the Consultant with respect to any matter relating to or arising from the Integrity Commissioner and Closed Meeting Investigator's investigations.
16. The Consultant shall defend, indemnify and save harmless the Town of Arnprior, its elected officials, officers, employees and agents from and against any liability, loss, claims, demands, costs (including legal costs), damages, suits, judgments, penalties, and expenses, including reasonable, occasioned wholly or in part by any negligence, acts or omissions whether willful or otherwise by the Consultant, their agents, officers, employees or other persons for whom the Consultant is legally responsible.
17. In the event of any dispute with respect to the payment of the invoices, or any other matter in dispute which cannot otherwise be resolved between the Consultant and Arnprior, the Parties hereby agree to submit the matter to an impartial arbitrator under the *Arbitrations Act*, whose decision shall be final and binding. In the event that a matter is referred to an arbiter under this Article, Arnprior and the Consultant agree to equally share the cost of the arbitrator and any related expenses.
18. This Article shall survive termination of this Agreement.

## General Provisions

19. This Agreement shall be governed by and construed exclusively in accordance with the laws of the province of Ontario.

20. If any provision of this Agreement is declared to be void or unenforceable, such provision shall be deemed to be separate from the remainder of this Agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this Agreement shall remain in full force and effect.
21. This Agreement, along with the attached Schedule "A", constitutes the entire agreement between the Parties and supersedes all previous negotiations, understandings and agreement, whether verbal or written, with respect to any matters referred to in this Agreement.
22. This Agreement shall ensure to the benefit of, and be binding on, the Parties and their successors and assignees.

The Parties have executed this Agreement this 9<sup>th</sup> day of December, 2024.

**The Corporation of the Town of Arnprior**



Lisa McGee, Mayor



Kaila Zamojski, Town Clerk

"We have the authority to bind the Corporation"

**Cunningham, Swam, Carty, Little and Bonham LLP**

**Tony  
Fleming**

Digitally signed by Tony Fleming  
DN: O=Cunningham Swan LLP, CN=Tony  
Fleming, E=tfleming@cswan.com  
Reason: I am the author of this document  
Location:  
Date: 2024.11.29 14:56:05-05'00'  
Foxit PDF Editor Version: 12.1.8

Tony Fleming, Partner

"I have the authority to bind the Corporation"



## **Schedule “A”**

### **Statement Of Duties and Responsibilities**

The duties of the Integrity Commissioner and Closed Meeting Investigator shall be:

#### **Education and Advice:**

1. Upon the request of Council, the CAO or Town Clerk, to provide advice, education, and training on the Code of Conduct to Members of Council and those to whom the Code applies, either collectively or individually, for Members of Council.
2. Upon the request of Council, the CAO or Town Clerk, to provide advice, education, and training on the Code of Conduct for Local Boards (if applicable) to the Members of the Local Board and those to whom the Code applies, either collectively or individually, for Members of Local Boards.
3. To provide advice and opinions to Members of Council and those to whom the Code applies, either collectively or individually, with respect to the *Municipal Conflict of Interest Act*, the Code of Conduct and other procedures, rules and policies of the Municipalities governing ethical behaviour.
4. Upon the request of Council, the CAO or Town Clerk, to provide educational information to the municipality and the public about the municipality's codes of conduct for Members of Council and Members of Local Boards (if applicable), and about the *Municipal Conflict of Interest Act*.
5. At the request of Council, the CAO or Town Clerk, to develop policies and procedures for the Office of the Integrity Commissioner, and to review the same.
6. At the request of Council, the CAO or Town Clerk, to review the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable) and any related policies and procedures, as required, and to make recommendations for any needed changes in respect thereof.

#### **Investigations:**

7. In accordance with the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable), other applicable ethics-related policies, rules or procedures and the policies and procedures for conducting investigations, to engaged in dispute resolution activities as deemed appropriate in advance of or as part of any investigation.

8. In conducting any investigations under this Agreement, to have regard to the importance of:
  - a. The investigator's independence and impartiality;
  - b. Confidentially with respect to the investigator's activities; and
  - c. The credibility of the investigator's investigative process.
9. To conduct investigations from time to time upon receipt of a request for investigation (a "Request") in respect of complaints and alleged breaches of the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable), or other applicable ethics-related policies, rules or procedures and to provide recommendations based on the outcome of the investigation.
10. To proceed without undue delay and with due diligence to investigate a Request and to report to the Council of the affected Municipality within a reasonable period of time.
11. To conduct each investigation in private and not disclose the identity of the complainant to any person/body unless written authorization to do so is obtained from the complainant or unless necessary to report on the investigation.
12. To hear or obtain information from such persons as the Integrity Commission thinks fit and to make sure inquiries as he/she thinks fit.
13. To provide an opportunity to any person that may be adversely affected by a proposed report of the Integrity Commissioner, the opportunity to make representations respecting such report or recommendation.
14. To preserve confidentiality and secrecy with respect to all matters that come to their knowledge in the course of performing duties hereunder, save and except disclosure of such matters as in the Integrity Commissioner's opinion ought to be disclosed in order to establish grounds for his/her conclusions and recommendations.
15. After making an investigation into an alleged breach of the Code of Conduct, the Integrity Commissioner shall render his/her opinion as to whether or not a Member of Council has contravened the Council Code of Conduct and, if so, recommend to the Council of the affected municipality any appropriate sanction(s) or remedial action(s).
16. After making an investigation into an alleged breach of the Code of Conduct for Local Boards (if applicable), the Integrity Commissioner shall render his/her opinion as to whether or not a member of Council has contravened the Council Code of Conduct and, if so, recommend to the Local Board any appropriate sanction(s) or remedial action(s).

17. After making an investigation into an alleged breach of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall render an opinion as to whether or not a Member of Council or a Member of a Local Board has contravened the Act, and if so, whether any sanction is recommended.

**Closed Meeting Investigations:**

18. Carry out the duties as a Closed Meeting Investigator for the Town of Arnprior as outlined in Section 239.2 (1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, which authorizes a municipality to appoint an investigator who has the function to investigate, in an independent manner, on a complaint made to him or her by any person, whether the municipality or a local board has complied with section 239 or a procedure by-law under section 238 (2) in respect of a meeting or part of a meeting that was closed to the public, and to report on the investigation.