


# POLICY

	Policy:	<b>Commissioner of Oaths Policy</b>		
	Department:	Clerk		
	Division:		By-Law No.:	N/A
	Administered By:	Clerk's Office	Effective Date:	August 1, 2024
	Replaces:	N/A		
	Attachment(s):	N/A		

## POLICY STATEMENT

This policy formalizes the process and parameters for providing Commissioner of Oath services offered by the Town of Carleton Place.

## PURPOSE

To provide information to the general public and guidance to staff appointed to act as Commissioners of Oaths on behalf of the Corporation.

## DEFINITIONS

Commissioner of Oaths – a person authorized by the Province of Ontario under the *Commissioners for Taking Affidavits Act* to administer oaths and take affidavits, declarations, and affirmations required by legislation or regulation, and subject to any limitations in their appointment certificate.

Deponent – the person swearing an oath, making an affirmation, or making a declaration.

Notary Public – a person who can witness or certify, and attest, the execution of a document and certify and attest documents to be true copies of the original (typically lawyers or paralegals). A Notary's appointment includes the authority to act as a Commissioner appointed under the *Notaries Act*.

## SCOPE

This procedure applies to all employees of the Town who by virtue of office, or who have been appointed by the Attorney General under *the Commissioners for taking Affidavits Act*, R.S.O. 1990, c C.17, to commission documents.

## POLICY

### 1.0 Background

1.1 Clerks, Deputy Clerks, Treasurers, and Deputy Treasurers are authorized by the Minister of Justice for Ontario to act as Commissioners of Oaths within the

limits of their municipality by virtue of their office.

- 1.2 At their discretion, the Town Clerk may apply to the Province of Ontario to have other staff within the Corporation appointed as Commissioners of Oaths where those employees' positions require them to provide Commissioner of Oaths services to the public. Individuals appointed as Commissioners of Oaths shall have their appointment for three (3) years, after which their appointment must be renewed.
- 1.3 Commissioner of Oath services are provided at the Town Hall during regular office hours Monday through Friday. An appointment is not required, but calling ahead is recommended to ensure a Commissioner will be available upon arrival. The Commissioner of Oaths services fee is established annually through the Town's Fees and Charges By-law.

## **2.0 Authority of Commissioner of Oaths**

- 2.1 A Commissioner of Oaths is empowered under provincial legislation to administer and witness the swearing of oaths or solemn affirmations in the taking of an affidavit for any potential legal matter. Commissioners of Oaths can also witness any declaration as required under statute.
- 2.2 The person swearing or affirming to a document must appear in-person before the Commissioner of Oaths unless an accommodation has been made in accordance with Section 8.0 of this policy. Deponents must bring the following items with them:
  - The document requiring a Commissioner of Oaths signature (the document should be complete but should **not** be signed until done so before the Commissioner).
  - One valid piece of government-issued photo identification (no photocopies) for each individual who will be making a declaration.
  - If commissioning a document requires verification of the deponent's address, the deponent shall bring proof of address. For example, Health Cards must be presented with another identification form (e.g., utility bill, cheque stub, T4 statement, etc.) to verify the deponent's address.
- 2.3 The signing of the document must be completed in the presence of the Commissioner. The Commissioner shall not commission any document that was not signed in their presence.
- 2.4 A Commissioner of Oaths certifies, by affixing their stamp, that the required

oath, affirmation, or declaration has been properly administered. Under the *Commissioners for Taking Affidavits Act*, Commissioners of Oaths do not certify the correctness of the information contained in the document; this responsibility lies with the deponent.

2.5 The Commissioner of Oaths is not responsible for the contents of the document to be signed before them; this is the responsibility of the deponent. The deponent must understand not only the details to which they will attest but also the fact that they are swearing an oath, affirmation, or declaration, the details of which are true and complete to the best of their knowledge. A commissioner may refuse to sign a document if they do not believe the deponent understands the document and/or its contents.

2.6 The Town of Carleton Place shall not retain copies of commissioned documents or copies of identification provided for verification purposes; however, individual Commissioners of Oaths will be encouraged to keep a log detailing the following in the event there is ever a question as to the authority of the document or the document is ever challenged:

- the deponent's name;
- a description of the type of document commissioned;
- the type of identification that was presented, and
- the date on which the document was commissioned.

Where a deponent objects to the Commissioner of Oaths recording the above-noted information, the commissioning service will not be provided, and the Commissioner may refuse to fulfill their duties.

### **3.0 Document Types**

3.1 Documents that a Commissioner of Oaths will sign on behalf of the Corporation include, but are not limited to:

- Town of Carleton Place generated documents (planning appeals);
- Domestic and Foreign Pension documents (Proof of Life);
- Statutory Declaration of Apprenticeship hours;
- Canadian Citizenship forms;
- Delayed Statement of Birth;
- Adult Name Change document;
- Child Name Change document;
- Statutory Declaration of Lost Identification (must include the police report number);
- Sworn Statement for the Transfer of a Used Motor Vehicle in the

Province of Ontario;

- Affidavit for Vehicle Ownership Change
- Statutory Declaration for OSAP;
- Statement of Common Law Status / Supporting Children;
- Travel letter / affidavit (parents' permission to allow children to travel outside of the country)
- Immunization Health Form; and
- Age of Majority or BYID Card applications.

3.2 Documents that a Commissioner of Oaths is **not** authorized to sign on behalf of the Corporation include, but are not limited to:

- Any documents specifically requiring a notary public;
- Invitation letters
- Wills, Living Wills, Codicils to Wills or Estate Settlement documents;
- Power of Attorney;
- Divorce or separation documents;
- Custody documents;
- Real estate matters (including sale, purchase and mortgages)
- Court, legal or civil issue related documents;
- Declaration or Claimant and Indemnity;
- Declaration of Replacement of Shares;
- Statutory Declaration of Progress Payment Holdback Security Deposits;
- Statement of Arrears;
- Declaration of a Translator; and
- Certified true copies.

3.3 The Town of Carleton Place does not Commission exhibits for individuals. If there are exhibits that accompany an oath, affirmation, or declaration that is to be commissioned, the Commissioner of Oaths will advise the deponent to incorporate them into the document or will refer the individual to a lawyer.

3.4 Notwithstanding Section 3.1 of this policy, it is at the discretion of the individual Commissioner of Oaths as to whether to sign a document. If a Commissioner of Oaths is unable to discern the identity of the deponent or the content of the document for any reason, they may refuse to sign the document and the deponent will be referred to a lawyer.

#### **4.0 Witnessing Documents**

Commissioners of Oaths for the Town of Carleton Place cannot sign as witnesses to a document, and requests for them to do so will be refused.

## **5.0 Legal Advice and Preparing Documents to be Commissioned**

The Commissioner of Oaths will not prepare, make edits to, or assist a person in completing any document to be commissioned nor will the Commissioner of Oaths provide legal advice or counsel to the deponent. Any assistance required will be directed to the agency or party that has requested the document to be commissioned. The Town of Carleton Place does not supply blank affidavit forms.

## **6.0 Notary Public**

6.1 A Commissioner of Oaths cannot notarize documents. Documents that specify a signature required by a Notary Public will be referred to local legal firms or other vocations authorized to notarize documents.

## **7.0 Requests to Certify True Copies**

7.1 The *Municipal Act* authorizes Municipal Clerks and Deputy Clerks (subsections 253(1) and (2) and section 447.6) to certify copies of municipal records as "true copies" of the original documents. These may include official records of the Corporation of the Town of Carleton Place such as by-laws and minutes.

7.2 Municipal Clerks and Deputy Clerks have no authority to "certify" any other documents as "true copies" of the originals, and as such, the Town of Carleton Place will not certify a "true copy" of any document for which it does not have the official record on file. Individuals requesting "true copies" of driver's licenses and other documents issued by another level of government will be referred to the originating institution to obtain a "true copy".

## **8.0 Request for Accommodations**

8.1 Notwithstanding Section 2.2 of this policy, the Town of Carleton Place is committed to the provision of services in a manner that is consistent with the *Ontario Human Rights Code* or the *Accessibility for Ontarians with Disabilities Act*. Alternative formats and communication support to help facilitate the commissioning process are available upon request and such requests may be directed to the Clerk's Department at [sblair@carletonplace.ca](mailto:sblair@carletonplace.ca) or by phone to 613-257-6212.

## **POLICY COMMUNICATION**

This policy will be shared with all appointed Commissioners of Oaths for the

Corporation whose appointments were completed through the Clerk's Division. It will also be made available to the public through the Town's website.

## **RELATED DOCUMENTS/LEGISLATION**

- [Accessibility for Ontarians with Disabilities Act](#), 2005, SO 2005, c. 11
- [Commissioners for Taking Affidavits Act](#), RSO 1990, c. C.17
- [Human Rights Code](#), RSO 1990, c. H.19
- [Municipal Act, 2001](#), SO 2001, c. 25
- [Notaries Act](#), RSO 1990, c. N.6
- [Guide for newly appointed commissioners for taking affidavits in Ontario](#)