

**THE CORPORATION OF THE TOWNSHIP OF WOLLASTON**

**BY-LAW NO. 44 – 2020**

BEING A BY-LAW TO APPROVE THE COMMISSIONER OF OATHS & FOR TAKING AFFIDAVITS POLICY

WHEREAS Section 8 (1) of the *Municipal Act, 2001*, provides the powers of a municipality under this or any Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Council of The Corporation of the Township of Wollaston deems it appropriate to adopt a Commissioner of Oaths & For Taking Affidavits Policy.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WOLLASTON HEREBY ENACTS AS FOLLOWS:

1. The Commissioner of Oaths & For Taking Affidavits Policy, as attached hereto, shall form part of this By-law and is hereby approved for use within the municipality;
2. This By-law repeals all previous By-law and/or Motions of Council pertaining to the same.
3. This By-law shall become effective upon the date of passing thereof.
4. Where any By-law passed prior to this, conflicts with this By-law, the terms of this By-law shall prevail.

PASSED this 13<sup>th</sup> day of July 2020.

**MAYOR: BARBARA SHAW**

**CLERK: BERNICE CROCKER**

**The Corporation of the Township of Wollaston  
Commissioner of Oaths & for Taking Affidavits Policy**

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**PURPOSE**

The purpose of this policy is to provide the service criteria and limitations for Commissioners of Oaths and for Taking Affidavits provided by the Township of Wollaston; as well as establishing an internal protocol for the Clerk's office.

**BACKGROUND**

A Commissioner of Oaths is a person authorized by the Province of Ontario to administer oaths or declarations required by legislation or regulation.

Clerks, Deputy Clerks, Treasurers and Deputy Treasurers, by virtue of office, are authorized by the Minister of Justice to act as Commissioners of Oaths, within the limits of their municipality.

**PROCESS**

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 and also empowered to witness any declaration as required under a statute. The person swearing an oath, making an affirmation or making a declaration is called a deponent or declarant.

A Commissioner of Oaths only certifies by affixing a stamp or seal that the required oath or affirmation or declaration has been properly administered. Commissioners of Oaths do not certify the truth of the statements contained in a document; that responsibility remains with the deponent or declarant.

The Commissioner of Oaths is not responsible for the content of the affidavit; it is the responsibility of the person whose signature is being commissioned (the deponent). The deponent must understand not only the details to which he/she will attest, but also the fact that he/she is swearing an oath that the details are correct.

**1. Commissioner of Oaths Services**

The person swearing or affirming to a document must appear before the Commissioner of Oaths and provide proper identification (photo ID) such as a valid driver's license, current passport or any other government issued photo identification. The completed affidavit with the exception of the signature should also be presented, however the signing of the affidavit must be completed in the presence of the Commissioner.

The person shall be advised as follows:

1. A copy of documents that are sworn, together with copies of the identification provided shall be retained for the file. This is completed to provide evidence of the declarant's claim to the authenticity of the documents or in the case where the documents are ever challenged.

2. The identification is "personal information" as defined in the Municipal Freedom of Information and Protection of Privacy Act. The person shall be advised that "The personal information is being collected with the person's

consent as a condition of the municipality providing document commissioning services.”

3. The purpose of the collection is to verify age and identity. Verification may be required if the document is questioned at any time in the future.

4. The person does not have to consent to the collection as noted in No. 1 and 2 above. If the person does not consent, the commissioning service cannot be provided.

Questions regarding this collection can be directed to the Clerk’s Office during regular business hours.

The Commissioner of Oaths **will** sign documents relating to the following, but not limited to:

- i. Residency Documentation
- ii. Passport Applications
- iii. Vehicle Transfers
- iv. Change of Ownership
- v. Insurance Claims
- vi. Certify Documents as “True Copies” (see Section 5)
- vii. Birth and Death Information Applications as prescribed by Statute
- viii. Certification of Identifiable Individual’s Signature
- ix. Any government-related forms
- x. Marriage License Related Documentation
- xi. Consents to Travel
- xii. Municipally-Related Documents (In-house)

The Commissioner of Oaths **will not** sign documents relating to the following:

- i. Wills
- ii. Living Wills
- iii. Codicils to Wills
- iv. Powers of Attorney
- v. Divorce, Separation, Custody
- vi. Theft Related Documents
- vii. Real Estate Related Documents
- viii. Court Documents or documents related to a court proceeding

## **2. Multiple Deponents**

Where an affidavit is made by two or more deponents, there shall be a separate jurat for each deponent, unless all the deponents make the affidavit before the same person at the same time, in which case one jurat containing the words “Sworn by the above-named deponents” may be used.

## **3. Right of Refusal**

It is at the exclusive discretion of the individual Commissioner of Oaths whether or not they choose to sign the document. If a Commissioner of Oaths is uncertain about the identity of the deponent or the content of the document for any reason, the Commissioner of Oaths may refuse to sign the document and the deponent will be referred to a lawyer or other Commissioners of Oaths within the community.

#### **4. Affidavit – Visual/Literacy Assistance**

When assistance is requested by the person taking an affidavit, the person shall certify in the jurat that the affidavit was read in their presence and that the deponent signed the affidavit or placed their mark on it in the presence of the person taking affidavit.

#### **5. Restrictions**

The Commissioner of Oaths will not prepare or edit affidavits, nor provide legal advice.

The Commissioner of Oaths will not counsel or assist a person with completing the affidavit document. Any assistance required should be directed to the agency or party that has requested the form. The Clerk's office does not supply blank affidavit forms.

The Clerk's Office does not provide interpreters for the signing of affidavits. It is the responsibility of the applicant to obtain and provide an interpreter, if required.

For documents that Commissioner of Oaths are unable to sign, the general public will be referred to Commissioners of Oaths within the community [(Ontario Government Building (Service Ontario/Service Canada), Court Office, Justice of the Peace or local lawyer firm(s)] for further assistance.

#### **6. Certify True Copies**

Municipal Clerks are authorized by the *Municipal Act, 2001 (in Subsections 253(1) & (2) and Section 447.6)* to certify copies of municipal records as "true copies" of the original documents.

- by-laws and resolutions of the municipality and of its local boards; minutes and proceedings of regular, special or committee meetings of the council or local board, whether the minutes and proceedings have been adopted or not;
- records considered at a meeting, except those records considered during that part of a meeting that was closed to the public;
- the records of the council;
- statements of remuneration and expenses prepared under *section 284. 2001, c. 25, s. 253 (1)*.

Clerks have no authority to "certify" any other documents as "true copies" of the originals.

If a person requests a "true copy" the Clerk will advise the person that there is no assurance that such certification will be accepted by the intended recipient. The requestor shall sign an acknowledgment of the statement given by the Clerk.

- i. The original document must be provided in order to certify a copy as a true original.

#### **7. Accessing the Service**

Commissioner of Oaths services are provided during business hours at the Office of the Clerk. An appointment is preferred in order to ensure availability

of the Clerk or Deputy Clerk. The fee for this service is as per the User Fees and Charges By-Law.

## 8. Notarized Documents

Commissioner of Oaths are not authorized to notarize documents.

### Check List

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- **Verify the Signature**

The affidavit or declaration must be signed in your presence and the deponent/declarant must provide proof of identity.

- **Administer the Declaration, Oaths or Affirmation *Declarations***

The Ontario *Evidence Act* and the Canada *Evidence Act* both prescribe the following form for solemn declarations (italicized words added):

“I, (*name of the declarant*), solemnly declare that (*state the fact or facts declared to*), and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Declared before me (*signature of commissioner*) at (*city or town*) this (*date*) day of (*month*), 20 (*year*).”

- **Oaths and Affirmations**

**Oath**

“Do you swear that the contents of this affidavit as subscribed by you are true, so help you God?”

**Affirmation**

“Do you solemnly affirm and declare that the contents of this affidavit as subscribed by you are true?”

- **Where the deponent requires an interpreter**

“Do you swear / solemnly affirm and declare that you understand the (*name of interpreted language*) language and the english language, that you shall well and truly interpret the oath to the deponent and all other matters and things as shall be required of you, to the best of your skill and understanding, so help you God?”

- **Completing the Jurat**

The jurat is the part of the document where you certify when and where you took the affidavit or declaration.

Sworn (*or Affirmed or Declared*) before me at the (City, Town, *etc.*) of ..... in the (County, Regional Municipality, *etc.*) of ....., on (*date*).

.....  
Commissioner

(An imprint of your stamp must be placed here)

- The affidavit or declaration is now complete.

- **Oaths and Affirmations Not Related to Affidavits**

**To an interpreter** -- “Do you swear/ solemnly affirm that you understand the *(name of interpreted language)* language and the English language, that you shall well and truly interpret the oath to the deponent and all other matters and things as shall be required of you, to the best of your skill and understanding?”

## **Acknowledgement – Certify Other Documents**

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I, \_\_\_\_\_ acknowledge that \_\_\_\_\_  
Commissioner of Oaths has no authority to “certify” any other documents than those prescribed as “true copies” of the originals and does not provide any assurance that such certification will be accepted by the intended recipient.

\_\_\_\_\_  
Requestor

\_\_\_\_\_  
Dated

**OATHS AND AFFIDAVITS  
TO SWEAR OR NOT TO SWEAR**

<b>YES</b>	<b>NO</b>	<b>INSTRUCTIONS/CHECK LIST</b>
		Is the deponent competent?
		Do you know the deponent? If a stranger: 2 or more pieces of Identification (Photo ID with signature should be asked for If in doubt - <b>REFUSE</b>
		Not responsible for contents Alterations to document must be initialled by yourself and the deponent. Ask questions, be satisfied It is okay to refuse
		Ensure the deponent has read contents
		Administer oath prior to deponent or commissioner signing Oath administered by Commissioner Swear on Bible "Raise your right hand..." Oath – "Do you swear that the contents of this affidavit as subscribed by you are true and correct so help you God?"  Or  Oath – "Do you affirm and declare that the contents of this affidavit as Subscribed by you are true and correct?"
		Signing – Deponent must sign in your presence – if not <b>REFUSE</b> If Deponent has already signed, have them sign again. Only then... You sign legibly or print name below and apply stamp, if required
		Exhibits – Must be attached to affidavit Every Exhibit must be stamped and commissioned (I.E – "This is the Exhibit "A" referred to in the Affidavit of John Doe, sworn before me this 10 <sup>th</sup> day of April, 2011") Stamp to appear on first page of exhibit not on the attached blank sheet
		Keep Notes Keep copy of Affidavit

**TAKE YOUR ROLE AS COMMISSIONER SERIOUSLY, VERY SERIOUSLY**