



CITY POLICY

SECTION: MUNICIPAL GOVERNMENT

NO: MU-AD-01

REFERENCE: COMMISSIONER OF OATHS

Date: March 2, 2020

**Next Review Date:
March, 2022**

TITLE: Commissioner of Oaths

1.0 POLICY STATEMENT

This policy is to provide information to the general public with respect to Commissioner of Oath services provided by the City of Dryden; as well as provide a guideline for the Clerk's office

1.1 Background:

1.1.1. 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.

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

1.1.3. Commissioner of Oaths services are provided between the hours of 8:30 a.m. and 4:30 p.m. Monday to Friday, at the Office of the Clerk. An appointment is recommended to ensure availability of the Clerk or Deputy Clerk. The fee for this service is as per the Fees and Charges By-Law.

2.1 Commissioner of Oath Services:

2.1.1. A Commissioner of Oaths is empowered under provincial legislation to administer and witness the swearing of oaths or solemn affirmations in the

This policy is subject to any specific provisions of the Municipal Act, or other relevant legislation or Union agreement.

taking of an affidavit for any potential legal matter. Commissioners of Oaths can also 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.

- 2.1.2. The person swearing or affirming to a document must appear before the Commissioner of Oaths. Proper identification such as a valid driver's license, current passport or any other government issued photo identification that includes the deponent's signature must be presented as well as the completed affidavit with the exception of the signature. The signing of the affidavit must be completed in the presence of the Commissioner. The Commissioner shall not commission the document if it was not signed in their presence.
- 2.1.3. A Commissioner of Oaths only certifies by affixing a stamp or seal that the required oath or affirmation or declaration has been properly administered. Under the *Commissioners for taking Affidavits Act*, Commissioners of Oaths do not certify the truth of the statement contained in a document; the responsibility remains with the deponent or declarant.
- 2.1.4. 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.
- 2.1.5. The person shall be advised as follows:
 - (a) A copy of documents that are sworn, together with copies of the identification provided shall be retained for the file. This is completed in case there is ever a question as to the authority of the documents or if the documents are ever challenged.
 - (b) 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 being collected with their consent is a condition of the municipality providing document commissioning services to them. The purpose of the collection is to verify the age and identity of the deponent. Verification may be required if the document is questioned at any time in the future.

- (c) The deponent does not have to consent to the collection as noted in (a) and (b) above. If they do not consent, the commissioning service cannot be provided.

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

- (d) The Commissioner of Oaths will sign documents relating to the following, but not limited to:

- i. Residency Documentation
- ii. Vehicle Transfers
- iii. Change of Ownership
- iv. Insurance Claims
- v. Certify Documents as "True Copies" (see Section 4.1)
- vi. Birth and Death Information Applications as prescribed by Statute
- vii. Certification of Identifiable Individual's Signature
- viii. Any government-related forms
- ix. Marriage License Related Documentation
- x. City-Related Documents (in-house)

- (e) 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 or Custody Agreements
- vi. Theft Related Documents
- vii. Real Estate Related Documents
- viii. Court Documents or documents related to a court proceeding
- ix. Consents to Travel

2.1.6. Notwithstanding Section 2.1.5(d) of this policy, it is at the discretion of the individual Commissioner of Oaths whether or not they choose to sign the document. If a Commissioner of Oaths is uneasy about the identity of the deponent or the content of the document for any reason, he or she may refuse to sign the document and the deponent will be referred to a lawyer or other Commissioners of Oaths within the City.

2.1.7. 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.

2.1.8. If the affidavit refers to an Exhibit then the exhibit must be attached at the time the deponent(s) swears the affidavit. The Commissioner is required to verify that the exhibit(s) attached to the affidavit are in fact those to which the deponent has referred to in the body of the affidavit and mark and sign accordingly.

2.1.9. 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.

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

3.1 Notary Public:

3.1.1. A Commissioner of Oaths cannot notarize documents. Documents that specify a signature required by a Notary Public will be referred to local legal firms, Justice of the Peace, or similar vocations eligible to notarize documents.

4.1 Certify True Copies:

4.1.1. 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.

4.1.2. Clerks have no authority to "certify" any other documents as "true copies" of the originals. Notwithstanding the fact, many municipalities will still provide that service, but there is no legislative authority providing for it. If a person still requests a "true copy" the Clerk will caution the person that there is no guarantee that such certification will be accepted by the intended recipient. The person requesting the "true copy" shall sign that he/she was notified by the Clerk.

4.1.3. The original document must be provided in order to certify a copy as a true original. The fee for this service is as per the Fees and Charges By-Law.

5.1 Building & Planning Department:

5.1.1. The Building/Planning Manager has also been authorized, by application to the Minister of Justice, to act as a Commissioner of Oaths within the limits of the City of Dryden with respect to **planning-related documents only** which include applications prescribed by the Planning Act including minor variances, consents, subdivision, site plan control agreement applications, validations of title, official plan and zoning by-law amendments. The fee for this service is included in the respective application fee.

History			
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