

THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE

POLICY MANUAL

POLICY TITLE:

Commissioner of Oaths and Affidavits

SUBJECT:

Policy for the Commissioning of Oaths and Affidavits by employees who have been appointed by the Attorney General to commission documents.

POLICY SECTION:

C

POLICY NO:

13

EFFECTIVE DATE:

October 18, 2023

ENACTED BY:

Resolution, By-Law 23-69

PURPOSE

The purpose of this policy is to provide guidelines for Township of The North Shore employees who have been appointed by the Attorney General as Commissioners under the Commissioners for Taking Affidavits Act, R.S.O. 1990, c C.17, when commissioning documents for the public.

BACKGROUND

A Commissioner of Oaths and Affidavits is authorized 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 and Affidavits 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.

POLICY

Commissioner services are provided at the Township of The North Shore Municipal Office, 1385 Highway 17, Algoma Mills ON, during regular office hours. The public is strongly encouraged to book appointments for commissioner services to ensure availability. If an appointment is not booked, the individual understands that there may not be a Commissioner available to provide the service. The fee for the commissioning of approved documents is per the Township of The North Shore Fee Schedule, as amended.

Duties of the Commissioner:

The deponent or declarant who is swearing or affirming to a document, shall appear before the Commissioner. If the person is not present in front of the Commissioner, the document will not be commissioned.

To confirm the identity of the deponent or declarant, the Commissioner is required to review their proper photo identification i.e., valid driver's licence, current passport, or any other government issued photo identification that includes the deponent's signature. The completed affidavit, with the exception of the signature, must also be presented with the photo identification to confirm the identity of the deponent or declarant.

There is no guarantee that a document can be commissioned until the document is seen by the Commissioner.

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.

The Commissioner will affix their stamp to the document, certifying that the required oath, affirmation or declaration has been properly administered.

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 unsure 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.

Duties of the Deponent or Declarant:

Under the Commissioners for taking Affidavits Act, Commissioners of Oaths and Affidavits do not certify the truth of the statements contained in a document; that responsibility remains with the deponent or declarant.

The Commissioner is not responsible for the content of the affidavit; it is the responsibility of the deponent or declarant whose signature is being commissioned. The deponent or declarant must also understand not only the details to which they will attest, but also the fact that they are swearing an oath that the details are correct.

Commissioner Services:

The Commissioner of Oaths and Affidavits shall only sign documents that are in English, so the Commissioner can validate the information that is sworn.

The Commissioner may sign documents related, but not limited to the following*:

- Township of The North Shore generated documents
- Domestic and Foreign Pension document also known as Proof of Life
- Canadian Citizenship forms
- Delayed Statement of Live Birth
- Adult Name Change
- Insurance claims
- Vehicle transfer of ownership to a family member
- Invitation letters for a visitor's VISA
- Immunization exemption document
- Statutory Declaration of Lost Identification
- Statutory Declaration for OSAP – Statement of Common Law Status/Supporting Children
- Amendment to Birth/ Death/ Marriage Certificate forms
- Affidavit of Proof of Loss of Motor Vehicle/boat (from an insurance company)
- Affidavit of Proof of Residency
- Travel Industry Council of Ontario - Affidavit of Customer Claimant

* It is at the exclusive discretion of the individual Commissioner whether or not they choose to sign the document. If a Commissioner of Oaths and Affidavits is uneasy about the identity of the deponent, or the content of the document for any reason, the Commissioner may refuse to sign the document.

Services not provided by a Commissioner:

The Commissioner will not prepare or edit affidavits, nor will they provide legal advice. Any information or clarification required for the prescribed form, should be directed to the agency or party that has requested the form.

A Commissioner of Oaths is not a Notary Public. If a document is required to be “notarized” as opposed to “commissioned”, the Commissioners will not commission the document.

A Commissioner of Oaths and Affidavits is not the same as a Notary Public. A Notary Public is a person who is authorized under the Notaries Act to commission documents and certify documents as true copies to verify signatures. If a document requires the signature of a Notary Public, or the deponent or declarant requires certified copies of documents, then the deponent or declarant will need to contact a lawyer or a Notary.

A deponent or declarant may need a Notary Public for the following documents:

- If the document specifically states "Notary" and does not offer the option of a Commissioner of Oaths
- Land transfer and other real estate matters
- The Commissioner cannot witness documents where there is a requirement to personally know the person for a certain length of time, i.e. Passport Guarantor.

The following is a list of common documents but not limited to, that a Commissioner of Oaths and Affidavits cannot sign:

- Documents that need to be certified
- Forms which call upon a Commissioner of Oaths, and also request certified true copies of other documents as attachments. Because the Commissioner cannot certify attachments, they cannot sign the affixed application
- Wills, Living Wills, Codicils to Wills or Estate Settlement documents
- Power of Attorney
- Divorce, separation, marriage or cohabitation documents
- Custody documents
- Declaration for replacement of shares
- Documents related to debt
- Real Estate documents, including rental lease agreements
- Ministry of Children, Community and Social Services Family Responsibility Office forms
- Court, Legal or Civil issue related documents
- Declaration or Claimant and Indemnity
- Statutory Declaration of Progress Payment Distribution – Holdback Security Deposits
- Statement of Arrears
- Certified True Copies
- Incomplete documents
- Declaration of a Translator
- Age of Majority or BYID Card Application
- Documents requiring the signature of a Notary Public, Canadian and Foreign
- Documents to be Commissioned remotely or virtually

COMPLIANCE

All Commissioners for the Township of The North Shore are required to comply with the Commissioner of Oaths and Affidavits Policy as well as the Commissioners for taking Affidavits Act.