

The Corporation of the Township of North Huron

By-law No. 21-2024

Being a by-law to adopt a Document Commissioning Policy for the Corporation of the Township of North Huron.

Office Consolidation of By-law

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**The Corporation of the Township of North Huron**

**By-law No. 21-2024**

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**Being a by-law to adopt a Document Commissioning Policy for the Corporation of the Township of North Huron**

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WHEREAS Section 5(3) of the *Municipal Act, S.O. 2001, c.25*, as amended, provides that municipal power shall be exercised by by-law;

AND WHEREAS Section 1 of the *Commissioners for Taking Affidavits Act, R.S.O. 1990, c.17*, as amended, provides that persons who hold an office or an office of a class that is prescribed by the regulations made under this Act are, by virtue of office, commissioners for taking affidavits in Ontario;

AND WHEREAS Clerks, Treasurers, and their Deputies, by virtue of office, are authorized by the Minister of Justice to act as Commissioner of Oaths, in the geographic area established under the *Territorial Division Act, 2002* in which their municipality is situate;

AND WHEREAS the Council of the Corporation of the Township of North Huron is desirous of adopting a Document Commissioning Policy;

NOW THEREFORE the Council of the Corporation of the Township of North Huron ENACTS as follows:

1. That the Document Commissioning Policy attached hereto as Schedule "A" is hereby adopted and shall form part of this by-law.
2. That this by-law shall come into force and takes effect on the day of the final passing thereof.

Read a first and second time this 18<sup>th</sup> day of March, 2024.

Read a third time and passed this 18<sup>th</sup> day of March, 2024.

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Paul Heffer, Reeve

CORPORATE SEAL

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Carson Lamb, Clerk

# Township of North Huron

## Document Commissioning Policy



## 1. Purpose

- 1.1. The purpose of this Policy is to outline information for the public with respect to Commissioner of Oath services provided by the Township of North Huron; as well as standardize the process/procedure and types of documents that can and cannot be commissioned by Township staff for the public.

## 2. Background

- 2.1. Clerks, Treasurers and their Deputies, by virtue of office, are authorized by the Minister of Justice through the *Commissioners for Taking Affidavits Act* to act as Commissioners of Oaths, within the limits of their municipality.
- 2.2. A Commissioner of Oaths is a person authorized by the Province of Ontario to administer oaths and take affidavits or declarations required by legislation or regulation.
- 2.3. Commissioner of Oaths services are provided by authorized staff between the hours of 8:30AM and 4:30PM, Monday to Friday, at the North Huron Municipal Office. An appointment is recommended to ensure availability of the staff authorized to perform these services. The fee for a document commissioning is as per the current Township of North Huron Fees and Charges By-law.

## 3. Commissioner of Oath Services

- 3.1. 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. Commissioner 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.

- 3.2. 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 of Oaths. The Commissioner shall not commission the document if it was not signed in their presence.
- 3.3. 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; that responsibility remains with the deponent or declarant.

- 3.4. 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.
- 3.5. The public shall be advised as follows:
- (a) Township of North Huron Commissioner of Oaths will commission documents relating to the following:
    - a. Planning Applications
    - b. Domestic and Foreign Pension documents (Proof of Life)
    - c. Statutory Declaration of Apprenticeship Hours
    - d. Canadian Citizenship forms
    - e. Delayed Statement of Live Birth
    - f. Name Change documents
    - g. Statutory Declaration of Lost Identification (must include police report number)
    - h. Sworn Statement for the Transfer of a Used Motor Vehicle in the Province of Ontario
    - i. Statutory Declaration for OSAP – Statement of Common Law Status/Supporting Children
    - j. Affidavit of Unregistered Vehicle
    - k. Immunization Health Form
    - l. Statutory Declaration of Common-law Union (single signature) - Service Canada form
    - m. Application for Change of Sex Designation on a Birth Registration
  - (b) Township of North Huron Commissioner of Oaths will not sign documents relating to the following:
    - a. Wills, "Living Wills", Codicils to Wills or Estate Settlement documents
    - b. Power of Attorney
    - c. Divorce or Separation documents
    - d. Custody documents
    - e. Documents related to debt
    - f. Real estate related documents, statements, transfer of land
    - g. Court, Legal or Civil issue related documents
    - h. Age of Majority or BYID Card application
    - i. Documents that need to be Notarized
    - j. Letters of Invitation to obtain a visa to visit Canada
    - k. Travel Affidavit – consent letter for children
    - l. Proof of Loss for Insurance documents

- m. Any document that is to be executed by an individual acting in their capacity as a Power of Attorney
  - n. Documents that are in any language other than English will not be commissioned, as we cannot validate the information that is sworn.
- 3.6. Documents not specified within Section 3.5 of this Policy will be commissioned at the discretion of the Commissioner. The Commissioner shall ensure that doing so is not in conflict with any of the provisions of this Policy or applicable legislation.
- 3.7. Notwithstanding Section 3.5(a) 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, they may refuse to sign the document and the deponent will be referred to a lawyer.
- 3.8. 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 Township does not supply blank affidavit forms.
- 3.9. 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.
- 3.10. The Township does not provide interpreters for the signing of affidavits. It is the responsibility of the applicant to obtain and provide an interpreter, if required.
- 3.11. For documents that the Commissioner of Oaths is unable to sign, the public will be referred to Commissioner of Oaths within the community, a Court Office, Justice of the Peace or a local legal firm for further assistance.

## 4. Notary Public

- 4.1. 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.

## 5. Certify True Copies

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

- 5.2. Commissioner of Oaths, including Clerks, have no authority to "certify" any other documents as "true copies" of the originals. Notwithstanding this fact, many municipalities will still provide that service, but there is no legislative authority providing it. If a person still requests a "true copy" the Commissioner of Oaths 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 a form that he/she was notified by the Commissioner of Oaths. This form shall be retained by the municipality.
- 5.3. The Township of North Huron shall offer certified "true copy" services in the manner described in Section 5.2 of this Policy.
- 5.4. The original document must be provided in order to certify a copy as a true original.
- 5.5. The fee for this service is as per the current North Huron Fees and Charges By-law.

## 6. Compliance

- 6.1. All Commissioner of Oaths for the Township of North Huron are required to comply with the Township of North Huron Document Commissioning Policy as well as the *Commissioners for Taking Affidavits Act*.