



# THE TOWN OF WASAGA BEACH

## POLICY MANUAL

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| <b>SECTION NAME:</b><br>General Administration               | <b>POLICY NUMBER:</b><br>2-20                 |
| <b>POLICY:</b><br>Commissioners for Taking Affidavits Policy | <b>REVIEW DATE:</b><br>June 2028              |
| <b>EFFECTIVE DATE:</b><br>June 8, 2023                       | <b>REVISIONS:</b>                             |
| <b>ADOPTED BY BY-LAW NO.:</b><br>2023-XX                     | <b>ADMINISTERED BY:</b><br>Clerk's Department |

### **PURPOSE**

This policy is to provide information to the general public with respect to Commissioners for Taking Affidavits services provided by the Town of Wasaga Beach; as well as provide a direction for the municipal employees when commissioning documents to the public.

### **SCOPE**

This procedure applies to all employees of the Town of Wasaga Beach 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.

Clerks, Deputy Clerks and Treasurers, by virtue of office, are authorized by the Attorney General to act as Commissioners for Taking Affidavits, within the limits of their municipality. Additionally, Commissioners for Taking Affidavits can be authorized by the Attorney General at the request of the municipality.

Commissioners for Taking Affidavits are authorized under provincial legislation to administer oaths and take affidavits, declarations and affirmations. Commissioners for Taking 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**

Commissioners for Taking Affidavits services are provided at the Town of Wasaga Beach 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 this service is as per the Fees and Charges By-Law.

**Duties of the Commissioner:**

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

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

**Duties of the Deponent or Declarant:**

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

The Commissioners for Taking Affidavits 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.

**Commissioner Services:**

The Commissioners for Taking Affidavits shall only sign documents that are in English or French (if the Commissioner is fluent in either language), so the Commissioner can validate the information that is sworn.

The Commissioners for Taking Affidavits may sign documents related to the following for residents of the Town of Wasaga Beach:

- Sworn statement for family gift of a used motor vehicle
- Foreign pension document (or proof of life)
- Application to change a name
- Declaration for a change of sex designation
- Declaration of common law or single status
- Statement of conscience or religious belief
- Consent to travel with child (travel letter)
- Application for authorization and statutory declaration for the purposes of entry into Canada
- Statutory declaration of lost identification
- Declaration of unregistered vehicle
- Construction completion form
- Declaration of a true copy
- Court affidavits

- Ontario Land Transfer Tax Refund Affidavit
- Statutory Declaration in Lieu of a Guarantor
- Residency Documentation
- Change of Ownership
- Municipal- Related Documents (In-house)

The Clerk has the discretion to commission additional documents in addition to the above mentioned subject to limitations.

The Commissioners for Taking Affidavits will not sign documents relating to the following:

- Wills, living wills, codicils to wills, or estate settlement
- Powers of attorney
- Divorce, separation, or marriage agreements
- Custody
- Real estate matters (include sale, purchase, and mortgages)
- Debt
- Documents that are not in English or that do not have English descriptors

It is the exclusive discretion of the individual Commissioners for Taking Affidavits whether or not they choose to sign the document. If the Commissioners for Taking Affidavits is uneasy about the identity of the deponent or the content of the document for any reason, the Commissioners for Taking Affidavits may refuse to sign the document and the deponent will be referred to a lawyer.

If the affidavit refers to an exhibit then the exhibit must be attached at the time the deponent(s) swears the affidavit. The Commissioners for Taking Affidavits 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.

**Remote administering of oath:**

An oath or declaration may be taken by a deponent or declarant without being in the physical presence of the person administering the oath or declaration, as per *O. Reg. 431/20* (Administering Oath or Declaration Remotely), if the following conditions are met:

1. The oath or declaration is being administered by an electronic method of communication in which the person administering the oath or declaration and the deponent or declarant are able to see, hear and communicate with each other in real time throughout the entire transaction.
2. The person administering the oath or declaration confirms the identity of the deponent or declarant.
3. A modified version of the jurat or declaration is used that indicates,
  - i. that the oath or declaration was administered in accordance with this Regulation, and

- ii. the location of the person administering the oath or declaration and of the deponent or declarant at the time of the administering.
4. In the case of a commissioner to whom section 5 of the *Commissioners for Taking Affidavits Act, R.S.O. 1990, c. C.17* applies, the information on the stamp required to be used under that section appears on or in the document being signed.
5. The person administering the oath or declaration takes reasonable precautions in the execution of the person's duties, including ensuring that the deponent or declarant understands what is being signed.

**Records for Remote Services:**

Every person who administers an oath or declaration, in accordance with remote administering of oaths, shall keep a record of the transaction.

**Services not provided by a Commissioner:**

The Commissioners for Taking Affidavits 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.

The Commissioners for Taking Affidavits does not provide interpreters for the signing of affidavits. It is the responsibility of the applicant to obtain and provide an interpreter, if required.

Commissioners for Taking Affidavits cannot notarize documents. Documents that specify a signature required by a Notary Public will be referred to solicitors or firms that practice law in Ontario.

**Compliance**

All Commissioners for Taking Affidavits for the Town of Wasaga Beach are required to comply with the Commissioners for Taking Affidavits Policy as well as the *Commissioners for taking Affidavits Act*.

**POLICY ADMINISTRATION AND REVIEW**

This Policy will be reviewed as required, but in any case no later than five (5) years from the date of the most recent review.

The Director, Legislative Services & Clerk will be responsible for initiating the review of this Policy.