



## GENERAL ADMINISTRATION POLICY MANUAL

<b>Subject:</b> Commissioner of Oaths	<b>Approval Date:</b> June 17, 2013	<b>By-Law No.</b> 1782-13
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### 2.3 PURPOSE

The purpose of this policy is to provide information to the general public with respect to Commissioner of Oath services provided by the Municipality of Red Lake; as well as provide an internal guideline for the Clerk's office.

#### 1. BACKGROUND

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.

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

Commissioner of Oath services are provided between the hours of 9:00 a.m. – 4:00 p.m., Monday to Friday, 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.

#### 2. PROCESS

A Commissioner of Oath 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. Commissioners of Oaths are 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.

The person swearing or affirming to a document must appear before the Commissioner of Oath. Proper identification (photo ID) such as a valid driver's license, current passport or any other government issued photo identification 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.

A Commissioner of Oath 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; the responsibility remains with the deponent or declarant.

The Commissioner of Oath 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.

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--	--	------------------------------

### 3. NOTARY PUBLIC

Documents that specify a signature required by a Notary Public will be referred to local lawyer firms entitled to practice law in Ontario; Justice of the Peace; or similar vocations eligible to notarize documents. Commissioner of Oaths cannot notarize documents.

### 4. COMMISSIONER OF OATH SERVICES

The person swearing or affirming to a document must appear before the Commissioner of Oath and provide proper identification (photo ID) such as a valid driver's license, current passport or any other government issued photo identification 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 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 in case there is ever a question as to the authenticity of the documents or if 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 to you. The purpose of the collection is to verify your age and identity. Verification may be required if the document is questioned at any time in the future.
3. 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.

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a) The Commissioner of Oath will sign documents relating to the following, but not limited to:

- Residency Documentation
- Vehicle Transfers
- Change of Ownership
- Insurance Claims
- Certify Documents as "True Copies" (see Section 5)
- Birth and Death Information Applications as prescribed by Statute
- Certification of Identifiable Individual's Signature
- Any government-related forms
- Marriage License Related Documentation
- Municipally-Related Documents (In-house)

(b) The Commissioner of Oath will not sign documents relating to the following:

- Wills
- Living Wills
- Codicils to Wills
- Powers of Attorney
- Divorce, Separation, Custody
- Theft Related Documents
- Real Estate Related Documents
- Court Documents or documents related to a court proceeding
- Consents to Travel

Notwithstanding Section 4 (a) of this policy, it is at the exclusive discretion of the individual Commissioner of Oath whether or not they choose to sign the document. If a Commissioner of Oath is uneasy about the identity of the deponent or the content of the document for any reason, the Commissioner of Oath may refuse to sign the document and the deponent will be referred to a lawyer or other Commissioners of Oath within the community.

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

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

### 5. 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.

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 recipient shall sign that was notified by the Clerk.

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 User Fees and Charges By-Law .

### 6. PLANNING DEPARTMENT

The Planning Administrator has also been authorized, by application to the Minister of Justice, to act as a Commissioner of Oath within the limits of the Municipality of Red Lake 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 service is included in the respective application fee.