

THE CORPORATION OF THE MUNICIPALITY OF GREENSTONE

BY-LAW 18-37

Being a By-law of the Municipality of Greenstone to adopt a Commissioner of Oath and Affidavit Policy

WHEREAS Section 8 of the *Municipal Act*, 2001, S.O. 2001 c. 25 as amended, confers broad authority on a municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Section 9 of the *Municipal Act*, 2001, S.O. 2001 c. 25 as amended, grants a municipality the capacity, rights, powers, and privileges of a natural person for the purpose of exercising its authority under the Act or any other Act;

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

WHEREAS Council of the Municipality of Greenstone deems it necessary and desirable to enact a By-Law to adopt a Commissioner of Oath and Affidavit Policy that details what will consist the business of the municipality pertaining to Commissioning Services.

NOW THEREFORE the Council of the Corporation of the Municipality of Greenstone enacts as follows:

1. **THAT** Council adopts the Commissioner of Oath and Affidavit Policy as per Schedule 'A' attached hereto and forming part of this by-law.
2. **THAT** this By-Law shall come into force and take effect immediately upon the passing thereof.

PASSED AND ENACTED this 26th day of November, 2018.

A handwritten signature in black ink, appearing to read "Renald Y. Beaulieu".

Renald Y. Beaulieu, Mayor

A handwritten signature in black ink, appearing to read "Gabrielle Lecuyer".

Gabrielle Lecuyer, Clerk

THE CORPORATION OF THE
MUNICIPALITY OF GREENSTONE

POLICY MANUAL

SECTION: Corporate Services

SUBJECT: Commissioner of Oaths
& Affidavits Policy

DATE: November 26, 2018

DATE REVIEWED/REVISED:

AUTHORIZATION: By-Law 18-37

Purpose

This policy is to provide information to the general public with respect to Commissioner of Oath services provided by the Municipality of Greenstone; as well as provide a direction for the municipal employees when commissioning documents to the public.

Background

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

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 Municipality of Greenstone 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 Commissioner. Proper identification such as a valid driver's license, current passport or any other government issued photo identification that includes the

Duties of the Commissioner Cont'd:

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. If the person is not present in front of the Commissioner, the document will not be commissioned.

The Commissioner 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 or 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 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.

Commissioner Services:

The Commissioner of Oaths and 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 Commissioner may sign documents related to the following for residents of the Municipality of Greenstone:

- Residency Documentation
- Vehicle Transfers
- Change of Ownership
- Insurance Claims
- Death Information Applications as prescribed by Statute
- Pension Plan Documents
- Certification of Identifiable Individual's Signature
- Any government-related forms
- Marriage License Related Documentation
- Municipal- Related Documents (In-house)
- Real Estate Related Documents
- Consent to Travel
- The Clerk has the discretion to commission additional documents in addition to the above mentioned subject to limitations

The Commissioner will not sign documents relating to the following:

- Wills
- Living Wills
- Powers of Attorney
- Divorce, Separation or Custody Agreements

It is 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.

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.

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.

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

A Commissioner of Oaths cannot notarize documents. Documents that specify a signature required by a Notary Public will be referred to a solicitors or firms that practice law in Ontario.

Municipal Clerks are authorized by the Municipal Act, 2001 under subsections 253 (1) & (2) and Section 447.6 to certify copies of municipal records as "true copies" of the original documents. Commissioners have no authority and will not "Certify" any documents as "true copies" of the originals.

Compliance

All Commissioners for the Municipality of Greenstone are required to comply with the Commissioner of Oaths and Affidavits Policy as well as the Commissioners for taking Affidavits Act.