



**City of Kenora**  
**Application to Record Non-Conforming/Complying Rights**  
 Section 34 (9) of the *Planning Act*

**Office Use Only**

|                             |   |
|-----------------------------|---|
| Date Stamp - Date Received: | File Number: _____<br><br>Roll Number: _____<br><br>Application Deemed Complete (Date): _____ |
|-----------------------------|---|

**Background**

A legal non-conforming use is a use that was legally established under the Zoning By-law in effect at the time the use commenced but is not currently a permitted use for the zone in which it is currently located. The legally established use must have continued uninterrupted up to the present time. It is highly recommended that an applicant consult with the City of Kenora Planning Staff prior to submission in order to confirm the zoning on the subject property.

*Legal non-complying use* – where a use continues to be permitted by a successive zoning by-law but one or more of the physical land or building regulations (e.g. lot area, setbacks, height, coverage, etc.) have changed and the site no longer complies to the new zoning regulations.

*Legal non-conforming use* – a use that is not permitted in the current Zoning By-law but lawfully existed under the previous zoning by-law that was in place. **Please note:** legal non-conforming uses are based on the actual use carried on, and not all the uses from the previous zoning. It is not sufficient to conclude that a use continues to be “commercial” or “industrial”. When seeking recognition of a commercial use, be specific. E.g. a restaurant that was lawfully in existence at the time the zoning by-law changed cannot necessarily be converted into a retail store simply because they are both commercial uses.

The owner is responsible for providing evidence in support of legal non-conforming use claims. The following are examples that must be submitted as part of the application:

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Explanatory cover letter</li> <li>• Owner’s affidavit confirming use</li> <li>• Neighbour’s affidavit confirming use</li> <li>• Property survey</li> <li>• Property deed</li> <li>• Building permit(s)</li> </ul> | <ul style="list-style-type: none"> <li>• Tax records</li> <li>• Business licence(s)</li> <li>• Business records/receipts</li> <li>• Dated photograph(s)</li> <li>• Dated aerial photo(s)</li> </ul> |
|--|---|

The purpose of the evidence is to establish: the date from which the use was in place, the specific nature of the activity; and the location, size and use of all buildings and structures associated with use.

### **Guideline for Submission of Affidavits**

At a minimum, a submitted affidavit should include the following:

1. Signature of a person with accurate and true knowledge of the historic use of the subject property;
2. The affidavit must be sworn before a Notary Public, Lawyer, or Commissioner of Oaths;
3. The affidavit must identify the specific nature of the uses and the size and location of any buildings or structures;
4. The affidavit must attest to the date the use was established; and
5. The affidavit must identify any interruptions or changes to the use in question.

### **To submit this application and for further inquiries, contact:**

The City of Kenora Planning Department  
Planning Analyst – Melissa Shaw Tel. (807) 467-2292 or [mshaw@kenora.ca](mailto:mshaw@kenora.ca)  
City Planner Tel. (807) 467-2059

60 Fourteenth Street North, 2<sup>nd</sup> Floor  
Operations Centre – Kenora, ON P9N 4M9  
Fax: 807-467-2246

| 1.0 Owner/Applicant Information  |             |              |              |            |
|----------------------------------|-------------|--------------|--------------|------------|
| Check Appropriate Box:           | Person(s)   |              | Company      |            |
| Registered Land Owner            | Surname:    |              | First Name:  |            |
| Mailing Address                  | Street No.: | Street Name: | Postal Code: | Unit Num.: |
| City                             |             |              | Province     |            |
| Contact Information              | Phone:      |              | Fax:         |            |
| Email                            |             |              |              |            |
| Acquisition Date of Subject Land |             |              |              |            |

| 2.0 Agent/Solicitor Information |             |              |              |            |
|---------------------------------|-------------|--------------|--------------|------------|
| Company or Firm Name            |             |              |              |            |
| Name                            | Surname:    |              | First Name:  |            |
| Mailing Address                 | Street No.: | Street Name: | Postal Code: | Unit Num.: |
| City                            |             |              | Province:    |            |
| Contact Information             | Phone:      |              | Fax:         |            |
| Email                           |             |              |              |            |

| 3.0 Subject Property Information |             |              |              |            |
|----------------------------------|-------------|--------------|--------------|------------|
| Civic Address                    | Street No.: | Street Name: | Postal Code: | Unit Num.: |
| Municipal Roll Number            | 6016-       |              |              |            |
| Reference Plan Number            | 23R-        |              |              |            |
| Lot No.(s)/Block No.(s)          |             |              |              |            |
| Concession Number(s)             |             |              |              |            |
| Part Numbers(s)                  |             |              |              |            |
| Parcel and PIN No.               |             |              |              |            |

**4. A) Legal Non-Conforming Uses to be Established**

Please describe the existing uses on the subject property:

Use has been in existence since:                      Year: \_\_\_\_\_                      Month: \_\_\_\_\_                      Day: \_\_\_\_\_

Additional Information:

**4. B Legal Non-Complying Uses (Buildings, Structures) to be established**

| Existing Structures    | Ground Floor Area (m <sup>2</sup> ) | Height (m) | Total Floor Area (m <sup>2</sup> ) |
|------------------------|-------------------------------------|------------|------------------------------------|
| Dwelling/Main Building |                                     |            |                                    |
| Deck(s)                |                                     |            |                                    |
| Accessory Building(s)  |                                     |            |                                    |
| Open Storage Area      |                                     |            |                                    |

Additional information:

**5. Accompanying Documents**

Check the applicable documents that you are providing with this application:

- |  |                                 |                          |
|--|---------------------------------|--------------------------|
| <input type="checkbox"/> Explanatory Cover Letter                | Tax Records                     | <input type="checkbox"/> |
| <input type="checkbox"/> Owner's Affidavit Confirming Use        | Business Registration Documents | <input type="checkbox"/> |
| <input type="checkbox"/> Neighbour's Affidavit(s) Confirming Use | Dated Photograph(s)             | <input type="checkbox"/> |
| <input type="checkbox"/> Property Survey                         | Dated Aerial Photo(s)           | <input type="checkbox"/> |
| <input type="checkbox"/> Property Deed                           | Other (please specify)          | <input type="checkbox"/> |

\_\_\_\_\_

**6. Agent/Solicitor Signature**

I, \_\_\_\_\_, hereby declare that the statements herein are to the best of my knowledge a true and complete representation of the purpose and intent of this application:

\_\_\_\_\_  
Signature Date

**7. Owner's Authorization**

I, \_\_\_\_\_, owner of the subject lands, hereby authorize \_\_\_\_\_ to act as agent(s) for the purpose of all matters with respect to this application:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Owner Signature(s) Date

*\*All applicable information fields on this application must be completed prior to acceptance of submission. Opinions provided through this application process are based on information provided to Staff at the time of receipt. The City of Kenora reserves the right to update or amend its opinion on receipt of additional information.*