



LEGAL NON-CONFORMING USES GUIDE AND APPLICATION FORM



Town of Whitchurch-Stouffville
Planning & Development Services
111 Sandiford Drive, Stouffville, ON L4A 0Z8
905-640-1910 or Toll Free 1-855-642-TOWS (8697)
www.townofws.ca

GUIDE TO LEGAL NON-CONFORMING USES

Background

In Ontario, lawfully existing uses may continue and cannot be ‘zoned’ out of existence.

However, in the Ontario Planning system, legal non-conforming uses are intended to cease to exist in the long run and eventually be replaced with uses that conform to current standards as set out in the Municipal Zoning By-law and Official Plan. The *Planning Act* governs how a Municipality’s Zoning By-laws can be used for regulating the use of land. Municipal Zoning By-laws are updated and change over time in response to changing circumstances and new or updated Provincial policies such as the Provincial Policy Statement, Oak Ridges Moraine Conservation Plan and Greenbelt Plan.

Provisions of the *Planning Act* (Section 45(2)) empower the Committee of Adjustment to authorize the expansion of buildings and structures associated with legal non-conforming uses, and some minor variation or more compatible continuation of legal non-conforming uses.

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 use(s) actually carried on, and not all of the uses from the previous zoning. Therefore, it is not sufficient to conclude that a use continues to be “commercial” or “industrial”.

When seeking recognition of a commercial use, be specific. For example, a retail store that was lawfully in existence at the time the zoning by-law changed cannot necessarily be converted into a restaurant simply because both are commercial uses.

When do I need to establish a Legal Non-Conforming Use?

There are generally three (3) circumstances in which the Town may require completion of an *Application to Establish a Legal Non-Conforming Use* for a piece of property and/or use:

1. Committee of Adjustment application – when applying for a minor variance or consent
2. Search of Record request made for a subject property
3. By-law investigation

Forms of Evidence in Establishing Legal Non-Conforming Use

The Owner is responsible for providing evidence in support of legal non-conforming use claims. Examples of forms of evidence that must be submitted as part of the Application include:

- Explanatory Cover Letter
- Owner's Affidavit Confirming Use
- Neighbour's Affidavit(s) Confirming Use
- Property Survey
- Property Deed
- Building Permit(s)
- Tax Records
- Business Licence(s)
- Business records / receipts
- Dated Photograph(s)
- Dated Aerial Photo(s)

Staff will review submitted Applications to confirm a legal non-conforming use against all available Town records.

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

Guidelines for Submission of Affidavits

At minimum, a submitted affidavit should include the following:

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

For further inquiries, contact:

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Application to Establish Legal Non-Conforming Use

Note to Applicant: A legal non-conforming use is a use which 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 Town of Whitchurch-Stouffville Planning & Development Services Department prior to submission of an application in order to confirm the zoning on the subject property.

1. Applicant Information

(The Owner's Authorization in item 7 below must be completed for any applicant other than the registered owner)

Applicant Name: _____ (printed)

Address: _____

Tel #: _____ **E-mail** _____

2. Owner Information

(Skip if same as 1. Applicant Information)

Owner Name: _____ (printed)

Address: _____

Tel #: _____ **E-mail** _____

3. Property Information

Municipal Address: _____

Legal Description: _____

Tax Roll No.: _____

Property Size: _____ (hectares) OR _____ (acres)

4. A) Legal Non-Conforming Uses to be established

Existing Uses on Property: _____

Use has been in existence since: _____ (YYYY) _____ (MM) _____ (DD)

Additional Information: _____

Application to Establish Legal Non-Conforming Use

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

EXISTING STRUCTURES	Ground Floor Area (footprint)	Height	Total Floor Area (all floors)
Dwelling / Main Building			
Deck(s)			
Accessory Building(s)			
Open Storage Area			

*Please indicate unit of measurement – (square) metres or feet

Additional Information: _____

5. Accompanying Documents

Check applicable documents you are providing with this application:

Explanatory Cover Letter		Tax Records	
Owner's Affidavit Confirming Use		Business Registration Documents	
Neighbour's Affidavits(s) Confirming Use		Dated Photograph(s)	
Property Survey		Dated Aerial Photo(s)	
Property Deed		Other (please specify)	

Other Documents: _____

6. Applicant 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 processing this application:

Signature

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 the information provided to Staff at the time of receipt. The Town of Whitchurch-Stouffville reserves the right to update or amend its opinion based on receipt of additional information.

Committee of Adjustment

Search of Record Request

By-law investigation