



City of Kenora
Application for Comfort
The Municipal Act, 2001, S.O. 2001, c.25

A Letter of Comfort is an agreement between the City and a property owner who owns lands adjacent to municipal property and whose structure(s) (or other item) encroaches onto municipal land. Letters of Comfort are registered on title against the subject property and the encroachment will be allowed to remain so long as the City of Kenora does not require the said lands to carry out any purpose or function. It is the policy of the Corporation of the City of Kenora that there shall be no unauthorized encroachments onto municipal property or road allowances.

All decisions on Letter of Comfort applications are made by City Staff and are final. Each Letter of Comfort application will be evaluated on its own merit on a case-by-case basis.

General Overview and Guidelines	
Pre-Consultation:	<p>The City of Kenora Official Plan requires that applicant(s) attend a pre-consultation meeting with the Planning Department prior to formally submitting this application. Please ensure that you call ahead to arrange an appointment with Planning Staff at least one week prior to your preferred meeting date.</p> <p>For further information, or to make an appointment, please contact one of:</p> <p>City of Kenora Planning Department Planning Assistant – Melissa Shaw Tel: (807) 467-2292 or mshaw@kenora.ca City Planner – Devon McCloskey Tel: (807) 467-2059 or dmccloskey@kenora.ca</p>
Proof of Ownership:	<p>Proof of ownership (deed) or assessment roll number (tax bill) shall accompany each application.</p>
Fee:	<p>The transaction fee for a letter of comfort is \$175.00. Please make cheques payable to the Corporation of the City of Kenora. Payments may be made by cash or cheque only. Payments made at City hall may be by cash, cheque, debit or credit.</p>
Application:	<p>The City of Kenora requires (1) original copy of the application with any required supporting documents/report(s), together with the prescribed application fee or receipt for payment in order for the application to be deemed complete and be processed. All required information must also be provided electronically.</p> <p>This form sets out the information that will assist the City of Kenora in its evaluation of the application. Please answer all questions in full detail.</p> <p>Applications must be filled out in Blue or Black ink only. Applications completed in pencil or other colours of ink will not be accepted. If submitting photocopies of your application, the original copy must also be filed.</p> <p>Applications shall be signed by the owner(s) or agent in the presence of a Commissioner of Oaths. The City Clerk, Secretary Treasurer and City Planner are Commissioners. Where an agent or solicitor is authorized to make the application on behalf of the owner(s), their signature shall be witnessed.</p> <p>Letter of Comfort Agreements are not transferable by a property owner unless written consent from the City of Kenora is given.</p> <p>New residential encroachments shall not be permitted. New commercial encroachments may be permitted at the discretion of staff or Council.</p>

No changes, alterations or improvements shall be made to the encroachment without prior approval from the City of Kenora.

The term for Letter of Comfort Agreements shall be for a period of time equal to or shorter of; as long as the occupant owns the adjoining lands, until the encroachment is removed, or until such a time that the City of Kenora, at its discretion, requires the lands.

All applications will be circulated for review and comment to various City Departments (such as Planning, Operations, Roads, Sewer and Water Departments, etc.).

Sketch:

Applications and plans will be accepted in Metric only (1 foot = 0.3048 metres, 1 acre = 0.4046 hectares). The maximum size for the accompanying sketch/site plan shall be 11" x 17". If there is information provided on larger sizes, at least one copy shall be provided on the 11" x 17" format. Elevation drawings shall also be provided if applicable.

Survey:

A survey, certified by an Ontario Land Surveyor (OLS) must be submitted as part of each application.

Authorization:

Should an agent or solicitor represent the applicant(s), written authorization from the applicant(s) must accompany the application.

Signing Authority:

Letter of Comfort Agreements are signed by the Planning Administrator or Manager of Planning/Building or the Operations Manager.

Insurance Requirement:

All applicants must provide an insurance certificate agreement that indemnifies and saves harmless the City of Kenora from all loss, costs, damages, expenses, claims and demands whatsoever to which the Corporation, may be put or which it may suffer or sustain for which it may be liable by reason of anything done or omitted to be done in the construction, maintenance, alteration or operation of structure(s) consisting the encroachment. Please contact your insurance provider to discuss the insurance certificate.

Frequently Asked Questions (FAQ):

Do I get my application fee refunded if my application is refused?

No. Other fees that may be incurred by the owner include but are not limited to:

- Title search costs
- The cost of a reference plan to be prepared and deposited on title by an Ontario Land Surveyor (OLS)
- Conveyer and/or other legal fees
- Any additional fees or costs that the City of Kenora may incur relating to the processing of the application or the issued letter

Can I appeal the decision if my application is rejected?

No. Staff decisions are final for Letter of Comfort applications.

How long does the application process take?

The Planning Department will circulate all applications internally after consulting with the applicant. Decisions are typically rendered within two weeks of the application being deemed complete.

When might a Letter of Comfort be required?

A Letter of Comfort is required when a privately-owned structure or item is located partially on municipal property. The City of Kenora in some scenarios may grant a Letter of Comfort if the encroachment is deemed minor or non-intrusive, or if the lands are not required for municipal purposes.

The following are examples of encroachments. Please note that encroachments are not limited to these examples:

1. Structures or Buildings

Existing buildings or structures that were inadvertently and partially erected over municipal property or a road allowance and cannot be easily removed or relocated. These types of encroachments include existing buildings or residential structures, signs, retaining walls, garages etc.

2. Fences or Walls

The City may allow an existing fence to encroach onto municipal property under certain circumstances.

3. Tree(s) & Landscape Features

A Letter of Comfort is not required for tree(s). Please contact the City of Kenora’s Parks Supervisor prior to planting trees on municipal property. Encroachments such as clotheslines, flagpoles, mailboxes or other similar items should not be located on municipal property and must be removed by the owner and no Letter of Comfort will be granted. Features such as hedges or shrubbery that encroach onto municipal property shall not require a letter of comfort unless the feature is used to determine a boundary.

What could affect the outcome of my application?

Comments from one or more departments or external agencies. What departments and agencies are circulated?

- Roads Department
- Operations
- Planning Department
- Engineering
- Sewer & Water Department
- Fire & Emergency Services
- Building Department
- Parks Department
- Kenora Hydro (if applicable)
- Others, as determined by the City of Kenora

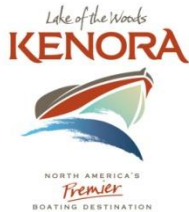
This Application must be Submitted to:

City of Kenora Planning Department
Planning Assistant – Melissa Shaw Tel: (807) 467-2292 or mshaw@kenora.ca
City Planner – Devon McCloskey Tel: (807) 467-2059 or dmccloskey@kenora.ca
60 Fourteenth Street North, 2nd Floor
Operations Centre - Kenora, ON P9N 4M9

Fax: 807-467-2246

Prescribed Information

Personal Information contained on this form is collected pursuant to the Municipal Act, and will be used for the purpose of processing and approval of this application and associated applications. Questions about this collection should be directed to: Freedom of Information and Privacy Coordinator, City of Kenora, One Main Street South, Kenora, ON P9N 3X7 – (807) 467-2027



City of Kenora
Application for Letter of Comfort
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OFFICE USE ONLY	
Date Stamp - Date Received: _____	File Number: _____ Roll Number: _____ Date Received: _____ Application Fee Paid: _____

Requirements/Checklist for a Complete Application:
Note: If the information below is not received the application cannot be deemed complete.
<input type="checkbox"/> 1 original of the completed application form <input type="checkbox"/> 1 copy of any existing letter of comfort/surveys etc. <input type="checkbox"/> Entrance Permit or MTO clearance if fronting a Provincial Highway <input type="checkbox"/> Survey as per the requirements outline in this form <input type="checkbox"/> The required application fee of as per the schedule of fees by-law <input type="checkbox"/> Authorization <input type="checkbox"/> Insurance Certificate Requirement <input type="checkbox"/> Proof of Ownership

1.0 - Applicant Information				
Subject Property Information				
Civic Address	Street NO.:	Street Name:	Postal Code:	Unit Num.:
Registered Plan Number	M-			
Legal Description				
Reference Plan Number	23R-			
Lot NO.(s)/Block NO.(s)				
Concession Number(s)/PT LOT				
Part Numbers(s)				
Tax Roll Number	6016			
Lot Frontage (Metres)				
Depth (Metres)				
Area (Ha.)				
Owner/Applicant Information				
Check Appropriate Box:	<input type="checkbox"/> Person(s)		<input type="checkbox"/> 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				
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				
Mortgages, Encumbrances, Holders of Charges Etc. of Subject Land				
Company				
Contact Person	Surname:		First Name:	
Mailing Address	Street NO.:	Street Name:	Postal Code:	Unit Num.:
Contact Information	Phone:		Fax:	
Email				
2.0 – Easements				
<p>Are there any easements or restrictive covenants affecting the subjected land? <input type="checkbox"/> No <input type="checkbox"/> Yes</p> <p>If yes, please describe the easement or covenant and its effect.</p>				
3.0 – Nature of Encroachment				
<p>Describe the nature and extent of the encroachment(s): Please check appropriate box(s). Types of encroachments include but not limited to:</p> <p><input type="checkbox"/> Permanent Building or Structure <input type="checkbox"/> Fence, Wall or Retaining Wall <input type="checkbox"/> Landscape Feature</p> <p><input type="checkbox"/> Parking on Road Allowance <input type="checkbox"/> Projection <input type="checkbox"/> Other (Please Specify): _____</p> <p>Can the encroachment be removed or relocated? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Dimensions of Encroachment: Width _____ Depth _____</p> <p>This structure encroaches into a: <input type="checkbox"/> Road allowance (please indicate name of road/street): _____ <input type="checkbox"/> Municipal property <input type="checkbox"/> Shore allowance (please name body of water) _____</p>				
4.0 – Reason(s)				
<p>Describe the length of time the encroachment and the reason(s) that the encroachment cannot be removed:</p>				

5.0 – Additional Information

Please provide an additional information that you feel would be beneficial to the application:

6.0 – Directions to Property

Please provide directions to the subject property:

7.0 – Sketch and Survey

Sketch Plan **Certified by an Ontario Land Surveyor (OLS)**

A sketch is required showing the following:

- a. The boundaries and dimensions of the Subject Lands
- b. The location of all existing buildings and structures on the Subject Land, indicating the encroachments onto municipal property
- c. The location of the Subject Lands and encroachment in relation to adjacent properties
- d. The boundaries and dimensions of any encroaching items
- e. The location, width and name of any roads within or abutting the Subject Land indicating whether it is an unopened road allowance, a public traveled road, a private road or a right of way
- f. Indicate North with an arrow on the sketch the location and nature of any easement affecting the subject land
- g. All necessary information must be contained on one single sketch or site plan

8.0 – Sworn Declaration or Affidavit

I, _____ of the _____ in the province of _____, make oath and say (or solemnly declare) that the information contained in this application is true and that I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

Sworn (or declared) before me at the _____ in the _____ this ____ day of _____ in the year _____

Commissioner of Oaths

Applicants(s)

9.0 Agreement

The Terms and Conditions of this Agreement if approved, as set out in this application, are as follows:

Letter of Comfort Agreement

The Corporation of the City of Kenora (the "City") acknowledges that all or a portion of the structures as indicated on the site sketch attached to and forming part of this application are located on property owned by the City. The applicant (the "Encroaching Party") has applied to permit the continued existence of the encroachment.

Until and unless the area occupied by said encroachment is required by the City, the City has no objection to the continuation of the encroachment in its current form. The Encroaching Party hereby indemnifies and saves harmless the City, its Councillors, employees and agents from and against all loss, costs, charges, damages, expenses and claims and demands whatsoever to which the City may be put or which it may suffer or sustain or for which it may be liable by reason of anything done or omitted to be done in the construction, maintenance, alteration or operation of structure(s) comprising the encroachment. The Encroaching Party shall provide the City with proof of insurance, in a form and amount satisfactory to the City, in support of this indemnity.

The Encroaching Party hereby agrees that any improvements made to the structure located on City property may only be done with prior City approval and are at the sole risk and cost of the Encroaching Party. This agreement is valid for a period of time equal to the shortest of:

- a) as long as the Encroaching Party owns the adjoining lands;
- b) until the encroachment ceases to exist;
- c) until such time as the City, in its sole discretion, requires the lands; or d) until the encroachment does not meet City specifications.

Upon termination of this agreement any improvements shall be removed, to the specifications of the City, in a timely manner at the sole cost of the Encroaching Party. The Encroaching Party agrees that if it does not remove the encroachment within the time specified by the City, the City may carry out such removal at the Encroaching Party's expense and may collect the costs of such removal from the Encroaching Party in the same manner as municipal taxes.

No further increases in area or volume of the encroachment shall be permitted under this Agreement. The Encroaching Party acknowledges that the encroachment referred to in this Agreement has not and shall not give the Encroaching Party any right, title or interest in the lands owned by the City where the encroachment exists. The Encroaching Party has not obtained and shall not obtain any possessory title or rights to the said lands and the Encroaching Party acknowledges that the encroachment is by permission of the City in accordance with the terms of this Agreement.

The Corporation of the City of Kenora

Authorized Official

Title

Signed

Date

Property Owner (Owner of Encroachment)

Signature

Information provided, including personal information, is collected for the purpose of creating a record that may become available to the general public.