

repaired except in conformance with the regulations of this ordinance. In any reconstruction of a nonconforming building or structure, neither the floor area nor the cubical content shall be increased from the original.

- G. Discontinuance. In any district, whenever a nonconforming use of land, premises, building or structure or any part or portion thereof has been discontinued for a period of one year, such nonconforming use shall not thereafter be reestablished, and all future use shall be in conformity with the provisions of this ordinance. Such discontinuance of the active and continuous operation of such nonconforming use or a part or portion thereof for such period of one year is hereby construed and considered to be an abandonment of such nonconforming use, regardless of any reservation of an intent not to abandon same or of an intent to resume active operations. If actual abandonment in fact is evidenced by the removal of buildings, structures, machinery, equipment and other evidences of such nonconforming use of the land and premises, the abandonment shall be construed and considered to be completed within a period of less than one year, and all rights to reestablish or continue such nonconforming use shall thereupon terminate.
- H. Prior-approved construction. Nothing herein contained shall prevent the construction of a building for which a building permit has been issued for a building made nonconforming by this ordinance or subsequent amendments thereto, provided that such building permit shall be void unless construction of such building shall have been diligently prosecuted within six months of the date of such permit and shall be completed within one year from the date such building was made nonconforming.

#### § 103-17. Enforcement.

- A. Enforcement officer. The provisions of this ordinance shall be enforced by the Building Inspector of the City of North Tonawanda. The Building Inspector shall keep a complete

file of all applications, permits, orders, certificates, requirements and decisions affecting each and every application filed with the city pursuant to this ordinance.

- B. Building permit required. The provisions of the Building Permit Ordinance<sup>4</sup> and other applicable regulations of the City of North Tonawanda shall control the issuance of building permits. In addition to such provisions, every application for a building permit shall be accompanied by a plat, in duplicate, drawn to scale and showing the dimensions of the plot to be built upon, the size and location of the building on the plot and such other information as may be necessary to provide for the enforcement of the regulations contained in this ordinance. No building permit shall be issued unless the provisions of this ordinance are complied with.
- C. Certificate of zoning compliance required.
- (1) No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for a certificate of zoning compliance.
  - (2) No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of zoning compliance shall have been issued by the Building Inspector, stating that the building or proposed use thereof complies with the provisions of this ordinance.
  - (3) All applications for a certificate of zoning compliance shall be in writing, signed by the owner, on forms furnished by the Inspector, and shall contain the following information:
    - (a) Nature and definite purpose of the building or use.

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4. Editor's Note: See Ch. 25, Building Permits.

- (b) Description of the property and buildings thereon and to be placed thereon.
  - (c) Statement of any restrictions by deed or other instrument of record.
  - (d) An agreement to comply with this ordinance and all other laws, ordinances and regulations that may be applicable.
- (4) In addition, upon written request by the owner, the Building Inspector shall inspect any building, other structure or tract of land existing on the effective date of this ordinance, and shall issue a certificate of zoning compliance therefor, certifying the use of the building, other structure or tract of land, and whether such use conforms to all the provisions of this ordinance.
- D. Inspection. The Building Inspector is hereby empowered to cause any building, other structure or tract of land to be inspected and examined, and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this ordinance. After any such order has been served, no work shall proceed on any building, other structure or tract of land covered by such order, except to correct the violation or to comply with such order.
- E. Penalties. A person shall be guilty of an offense punishable by a fine not to exceed \$100, or by imprisonment for not more than six months or by both such fine and imprisonment in any case where an order to remove any violation by any of the provisions of this ordinance has been served personally or by ordinary mail by the Building Inspector upon the owner, general agent, lessee or tenant of the building, other structure or tract of land or any part thereof or upon the architect, builder, contractor or anyone who commits or assists in any such violation, and such person shall fail to comply with such order within 10 days after the service thereof. Each day thereafter that such

violation shall continue shall constitute a separate offense and shall be punishable hereunder. [Amended 3-2-1964]

- F. Other remedies. In addition to the foregoing remedies, the city may institute any appropriate action or proceeding to prevent or restrain any violation of this ordinance.

**§ 103-18. Board of Appeals.**

- A. Creation and organization. A Board of Appeals, consisting of five members appointed by the Mayor, is hereby established as constituted and empowered under Section 81 and 81-a of the General City Law. One member of said Board shall be designated by the Mayor to act as Chairman. The City Clerk shall be the Clerk of the Board of Appeals.
- B. Powers and duties. The Board of Appeals shall have all the power and duties prescribed by law and by this ordinance, which are more particularly specified as follows:
- (1) Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
  - (2) Variances. Where there are practical difficulties or unnecessary hardships in carrying out the strict application of this ordinance, the Board of Appeals may vary or modify the requirements of this ordinance relating to the use or the arrangement of buildings or structures so that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable. No variance in the strict