

§ 103-16. Nonconforming uses.

- A. Continuation. Any lawful use which is made a nonconforming use by this ordinance or by any subsequent amendments thereto may be continued as hereinafter provided.
- B. Cessation. The following nonconforming uses may be continued for a period of three years, provided that after the expiration of such period any such nonconforming use shall become an unlawful use and shall be terminated:
- (1) In any R District, a nonconforming use not in an enclosed building, including but not limited to junkyards, auto wrecking and dismantling and the storage of motor vehicles which do not qualify for a New York State motor vehicle inspection sticker.
 - (2) In any R District, the parking or storage of equipment or commercial vehicles exceeding three-quarter-ton rated capacity.
 - (3) In any R District, a nonconforming sign or a nonconforming building or other structure with an assessed value under \$500.
- C. Change in use. A nonconforming use shall not be changed to another use, except:
- (1) In any R District, a nonconforming use may be changed to a use of a more restricted classification, including a conforming use.
 - (2) In any C District or M-1 District, a nonconforming use may be changed to a use in the same use group or a use of a more restricted classification, including a conforming use. This provision shall not apply to a nonconforming residential use.
 - (3) In any M District, a nonconforming residential use may be changed to a conforming use.

- (4) Once changed to a conforming use or to a more restricted use, no use thereafter shall revert to a less restricted use.
- D. Extension or enlargement. A nonconforming use shall not be enlarged or extended, except as follows: **[Amended 2-12-1988]**
- (1) In any C, M or WD District, any nonconforming use, other than dwellings, may be enlarged to an extent not exceeding 25%, in the aggregate, of the gross floor area devoted to such nonconforming use, but in no case shall such enlargement extend beyond the lot occupied by such nonconforming use. When the total of all enlargements equals 25% of the gross floor area existing at the time such use became a nonconforming use, no further enlargement shall be permitted.
- E. Repair or alteration.
- (1) Normal maintenance of a building or other structure containing a nonconforming use shall be permitted, including nonstructural repairs and incidental alterations not extending the nonconforming use.
 - (2) No structural alterations shall be made in a building or other structure containing a nonconforming use except:
 - (a) When required by law.
 - (b) To restore to a safe condition any building or structure declared unsafe by the Building Inspector.
 - (c) To permit enlargements as provided in this section.
- F. Restoration. No nonconforming building or other structure which has been damaged or destroyed by any means to the extent of 50% or more of its value shall be rebuilt or

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