

**LOCAL LAW NO. _2_ OF 2026
CITY OF NORTH TONAWANDA, NY**

A LOCAL LAW AMENDING CHAPTER 103 ZONING, SUPPLEMENTAL REGULATIONS §103-15, to add PART (D), SPECIAL USE PERMIT TO THE CITY OF NORTH TONAWANDA CODE

BE IT ENACTED by the Common Council of the City of North Tonawanda as follows:

WHEREAS, a local law is introduced to be known as Local Law No. _ of 2026, entitled LOCAL LAW _ OF 2026 TO AMEND CHAPTER 103 ZONING, SUPPLEMENTAL REGULATIONS §103-15, to add PART (D), SPECIAL USE PERMIT OF THE CITY OF NORTH TONAWANDA

WHEREAS, New York GCT – General City, Article 3, § 27-B is the enabling statute for special use permits; and

WHEREAS, a public hearing in relation to said local law was held on _____, 2026, at 6:00 p.m., prevailing time; and

WHEREAS, notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and

WHEREAS, the local law involves the involves an amendment to Chapter 103 Zoning, Supplemental Regulations §103-15, Part (D), Special Use Permit of the City of North Tonawanda; and

WHEREAS, these amendments are consistent with the goals, objectives and recommendations of the City of North Tonawanda Comprehensive Plan; and

WHEREAS, on _____, 2026, the Common Council declared its intent to Act as Lead Agency and referred the zoning text amendment to the city Planning Commission (Planning Commission) in accordance with City Code §103-19A; and

WHEREAS, on _____, 2026, in accordance with General Municipal Law 239-m, the Common Council referred this zoning text amendment to adjacent municipalities; and

WHEREAS, on _____, 2026, in accordance with General Municipal Law 239-m, the Common Council referred this zoning text amendment to the Niagara County Planning Board; and

WHEREAS, the Common Council received a response from the Niagara County Planning Board on _____, 2026; and

WHEREAS, it has previously been determined that the adoption of this Local Law is classified as a Type I action under the New York State Environmental Quality Review Act and its implementing regulations, 6 NYCRR Part 617, (“SEQRA”), and the Common Council, as lead agency, hereby determines that the proposed action will not result in a significant adverse impact on the environment and thus declares, authorizes and approves that a negative declaration be issued.

NOW, THEREFORE, BE IT ENACTED by the Common Council of the City of North Tonawanda that the City Code is amended as follows:

Section 1. Purpose

This Local Law is enacted for the purpose of amending Chapter 103, §103-15, Supplemental Regulations, to add Part (D). Special Use Permit, to the North Tonawanda Zoning Code to and

Section 2. Amendment

The City of North Tonawanda City Code entitled Chapter 103 Zoning, Supplemental Regulations §103-15, To Add Part (D), Special Use Permit, shall be and hereby is amended by this Local Law, which shall read in its entirety:

§103-15

D. Special Use Permit

- A. Description. A Special Use Permit, after careful consideration by the City of North Tonawanda Common Council, allows certain uses that have increased potential for incompatibility within a zoning district to determine, against fixed standards, whether their establishment on any given site should be permitted. These uses may or may not be appropriate in a particular location depending upon measuring, on a case-by-case basis, of the public need and benefit against impact and effect. Typical examples of such land uses include those that demand substantial energy, water, and sewer capacity, generate undue vehicle/truck traffic congestion, create excessive noise, dust, odors, solid waste, or glare, or any other potential nuisances.
- B. Initiation. A property owner, or person expressly authorized by the property owner in writing, may initiate a Special Use Permit.
- C. Authority. The City of North Tonawanda Common Council, after receiving recommendations from the City of North Tonawanda Planning Commission, Building Inspector and City Engineer, must act on requests for a Special Use Permit.
- D. Procedure.
 - 1. The owner or owner’s agent files a Special Use Permit application, including payment of the applicable fee, with the City Clerk/Treasurer.
 - 2. The City Clerk/Treasurer must then forward the application to the Building Inspector and City Engineer.

3. The Building Inspector/City Engineer shall conduct a pre-application meeting to determine completeness of application.
 4. The Building Inspector determines that the application is complete after reviewing all required and supporting documentation. This includes evaluation of the application under the State Environmental Quality Review Act (SEQRA).
 5. Within 30 days of receiving the application and determination of completeness, the Building Inspector/City Engineer shall forward the complete application to the Niagara County Planning Board for GML§239-m review and to the City of North Tonawanda Planning Commission who then must review in a timely manner the application and make a recommendation to approve, approve with modifications, or disapprove the application for a Special Use Permit, and then, forward the recommendation to the Common Council.
 6. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed Special Use Permit in accordance with Chapter 50, §50-1.
 7. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. An extension of the 62-day period shall be with mutual consent of the applicant and the Common Council.
 8. Site Plan Review. Any consideration of a Special Use Permit shall be in addition to and not in lieu of site plan review. The Common Council and Planning Commission can process the applications concurrently rather than waiting for one to finish before starting the next. Additionally, the Common Council and Planning Commission may combine public hearings (into one hearing) or hold them simultaneously. provided all public notice and legal posting requirements for all the procedures involved are satisfied.
- E. Approval Standards. The Planning Commission, City Building Inspector and City Engineer must make written findings of fact using fixed standards within their respective disciplines and compliance under the City of North Tonawanda Code, and then, the Common Council must consider the following criteria:
1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
 2. The proposed use is to be established, maintained, and operated to avoid impermissibly endangering public health, safety, or welfare.
 3. The proposed use will be established, maintained, and operated to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.
 4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects contiguous property and surrounding area.

5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
 6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.
- F. Conditions. In granting a Special Use Permit, the Common Council can impose reasonable conditions and restrictions directly related to and incidental to the proposed Special Use Permit. The Common Council shall further find whether the adverse impacts of the proposed special use can be mitigated to such an extent that the Special Use Permit should be granted and, if so, what conditions will be required to achieve mitigation. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, noise ordinance compliance or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the Special Use Permit.
- G. Modifications to Approved Permits. No use allowed by a Special Use Permit may be enlarged or increased in intensity without approval of a new Special Use Permit. The Building Inspector may, however, allow for an exception to this restriction for the following cases:
1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval but encountered during construction.
 2. An increase of building or structural footprint of 10% or less, so long as the increase in area does not exceed the bulk and density area requirement, if any, of the zone in which the project is located.
 3. The addition of any accessory structure customarily found in association with the use allowed by the Special Use Permit.
- H. Expiration.
1. The Special Use Permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
 2. The Common Council may extend the time for expiration of an approved Special Use Permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk/Treasurer within the original period of validity.
 3. Any use approved by a Special Use Permit that ceases operation for a continuous period of one year will be considered abandoned and the Special Use Permit will thereby expire.
- I. Revocation.

1. The Common Council may revoke a Special Use Permit after finding that any of the following occurred:
 - a. The licenses or permits required for the operation or maintenance of the use are terminated.
 - b. Any violations of the provisions of this Ordinance or any of the conditions and restrictions of the Special Use Permit as approved by the Common Council.
 2. The Common Council must hold a public hearing to confirm the revocation of the Special Use Permit. Notice for the public hearing is required in accordance with Chapter 50, §50-1, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.
- J. Retention of expert assistance and reimbursement by applicant.
1. The City may hire any consultant and/or expert necessary to assist the City in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any site inspections.
 2. An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be \$8,500. The placement of the \$8,500 with the City shall precede the pre-application meeting. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500, the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least \$5,000. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. If the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
 3. The total amount of the funds needed as set forth in Subsection 2 of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.
- K. Relief from Decisions
1. Any person or persons jointly or severally aggrieved by any decision of the Common Council on a Special Use Permit application may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceedings shall

be commenced within 30 days after the filing of the decision in the office of the City Clerk/Treasurer.

Section 3. Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase of this Local Law, which shall remain in full force and effect.

Section 4. Repeal

All ordinances, local laws, and parts thereof inconsistent with this Local Law are hereby repealed.

Section 5. Authority

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of General City Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Section 6. Effective Date

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with the Municipal Home Rule Law.

The foregoing resolution was duly put to a vote which resulted as follows:

Gabrielle Richards, Council President	_____
Joseph Lavey, Alderman at Large	_____
Thomas Murphy, Alderman at Large	_____
William Schulmeister, 2 nd Ward Alderman	_____
Hilary Roe, 3 rd Ward Alderwoman	_____

DATED: North Tonawanda, New York
_____, 2026

Austin J. Tylec, Mayor