

**TOWN OF ULYSSES, NEW YORK**  
**LOCAL LAW NO. 2 OF THE YEAR 2013**

A Local Law to Amend the Town of Ulysses Zoning Law ("the Zoning Law").

**SECTION 1.**

Article XX of the Zoning Law, entitled "Nonconformance", shall be amended by deleting all sections within the Article and replacing with the following provisions:

**20.1 Nonconforming buildings/structures**

*Where at the effective date of adoption or amendment of any provision of the Town of Ulysses Zoning Law (hereinafter referred to as "the Effective Date"), a lawful structure exists that could not be built under the terms of the Town of Ulysses Zoning Law (hereinafter referred to as "this Zoning Law") by reason of restrictions on area (except as otherwise provided in Section 20.3 below), lot coverage, height, yards, or other characteristics of the building/structure or its location on the lot, current and future owners may retain such building/structure, so long as it remains otherwise lawful, subject to the following provisions:*

- A. No such building/structure may be enlarged in a way which increases its nonconformity;*
- B. On any nonconforming building/structure, ordinary maintenance may be performed to repair, replace, strengthen or restore any walls, fixtures, windows, wiring, plumbing, or roofing. Nothing in this Zoning Law prevents the strengthening or restoring to a safe condition of any building/structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official;*
- C. Should such building/structure be destroyed by casualty, in whole or in part, it may be reconstructed in accordance with the provisions of Section 20.5 below;*
- D. Should such building/structure be moved for any reason for any distance whatever, it must thereafter conform to the regulations for the district in which it is located after it is moved;*
- E. Should such building/structure be demolished voluntarily, in whole or in part, it may be reconstructed in accordance with the provisions of Section 20.5 below.*

**20.2 Nonconforming uses of land and Nonconforming uses of buildings/structures**

*If a lawful use of land, of a building/structure, or of building/structure and land in combination, exists at the Effective Date, that would not be allowed in the district under the terms of this Zoning Law as amended, the lawful use may be continued as long as it remains otherwise lawful, subject to the following provisions:*

- A. Such nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the Effective Date;*

- B. *No existing building/structure devoted to a use not permitted by this Zoning Law in the district in which it is located may be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;*
- C. *Ordinary repairs may be made, and any nonbearing walls, fixtures, wiring or plumbing may be repaired or replaced. Nothing in this Zoning Law prevents the strengthening or restoring to a safe condition of any building/structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official;*
- D. *Should such building/structure be destroyed by casualty, in whole or in part, it may be reconstructed in accordance with the provisions of Section 20.5 below;*
- E. *Any nonconforming use may be extended throughout any parts of a building/structure which were manifestly arranged or designed for such use at the Effective Date, but such use must not be extended to occupy any land outside such building/structure;*
- F. *Any building/structure, or building/structure and land in combination, in or on which a nonconforming use is superseded by a permitted use must thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;*
- G. *When a nonconforming use of a structure, or structure and land in combination, ceases for a period of one year, the structure or structure and land in combination must not thereafter be used except in conformance with the regulations of the district in which it is located. For purposes of determining whether a nonconforming use has ceased for a period of one year there shall be excluded from the calculation of the year period any period of time during which a nonconforming use was suspended solely because of a national emergency or temporary government restrictions (other than zoning restrictions). Upon termination of the national emergency or the temporary government restriction, the calculation of the year period shall resume. The time limit may be extended by the Board of Zoning Appeals in case of practical difficulty or unnecessary hardship;*
- H. *Where nonconforming use status applies to a building/structure and land in combination, removal or destruction of the building/structure eliminates the nonconforming status of the land;*
- I. *Where a nonconforming use exists in an area that has been or now requires site plan approval for any change of use, the nonconforming use may not be changed to any other use permitted in the district until site plan approval has been obtained pursuant to the terms of this Zoning Law.*

### **20.3 Dwellings on nonconforming lots**

*Notwithstanding the provisions above prohibiting enlargement of nonconforming uses, if only a one-family dwelling or a legally existing two-family dwelling and related accessory buildings are present on a lot that is of a size or area less than that otherwise permitted in the district in which the lot is located, and such lot is a valid nonconforming lot, such dwelling may be enlarged or altered provided:*

- A. *The existing dwelling is in conformance with all requirements of this Zoning Law except for the fact that it is located on a lot of record that is less than the required size or area at the Effective Date creating the nonconformity;*
- B. *Such alteration or enlargement does not violate any other provisions of this Zoning Law (e.g., yard, height, or other restrictions).*

#### **20.4 Continuation of construction**

*Nothing in this Zoning Law is deemed to require a change in the plans, construction, or designated use of any building/structure on which actual construction was lawfully begun prior to the Effective Date and upon which actual building/structure construction has been completed within two years after the Effective Date making the use or building/structure location nonconforming.*

#### **20.5 Restoration**

- A. *Nothing herein shall prevent the continued use and substantial restoration and continued use of a nonconforming building/structure damaged by fire, flood, earthquake, act of nature, or act of the public enemy, or by voluntary demolition, provided that:*
  - 1. *Such restoration is located on, and no larger than, the footprint of the building/structure prior to its destruction and its height does not exceed the height of such prior structure; and*
  - 2. *Such restoration is completed within two years of the damage; and*
  - 3. *The use of the building/structure and the manner in which it was used prior to the loss is recommenced within two years of the damage.*
- B. *The time limits set forth above may be extended by the Board of Zoning Appeals in cases of practical difficulty or unnecessary hardship using the same criteria as are applied in determining applications for an area variance. An application for an extension shall be brought no later than 60 days before the expiration of the two-year period, or 60 days before the expiration of any previously granted extension.*

#### **20.6 Board of Zoning Appeals determination**

*The Board of Zoning Appeals shall have the jurisdiction to hear and determine any claims as to whether a particular use is a valid nonconforming use, or whether a nonconforming use has been improperly extended or enlarged, or any other matter relating to the nonconforming uses. Such jurisdiction may be exercised by an appeal of a decision of the Zoning/Code Enforcement Officer, or by direct application to the Board of Zoning Appeals in those instances where there is no application for a permit or certificate before the Zoning/Code Enforcement Officer. Any such direct application to the Board of Zoning Appeals shall be made on such forms and contain such information as the Board and/or the Zoning/Code Enforcement Officer may determine and shall be delivered to the Zoning/Code Enforcement Officer for submission to the Board.*

#### **20.7 Variance criteria**

*In the event an application is made to the Board of Zoning Appeals for a variance to enlarge or alter a nonconforming use, the Board of Zoning Appeals shall apply the same criteria in determining the matter as would be applicable if the application had been made for property that was otherwise conforming. For example, if the application is to enlarge a building that already encroaches on a required side yard, the Board of Zoning Appeals shall use the criteria applicable to considering an area variance. If the application is to change the use to another nonconforming use, the Board of Zoning Appeals shall use the criteria applicable to considering a use variance.*

**SECTION 2.**

This local law shall take effect upon filing with the Secretary of State.