

Additional Amendments to the Town of Fleming Zoning Code
(subsequent to the revisions of May 13, 2013)

1. Local Law 2 of 2014 to Modify and Expand Property Maintenance Requirements.
2. Local Law 3 of 2015 to include self-storage units as a permitted use by Special Use Permit in the Town's Commercial District Bulk and Use Table.

**TOWN OF FLEMING
LOCAL LAW 2014-2**

**A Local Law Amending the Town of Fleming Zoning Law to
Modify and Expand Property Maintenance Requirements**

WHEREAS, pursuant to authority vested in the Town of Fleming ("Town") by the Municipal Home Rule Law of the State of New York, the General Municipal Law of the State of New York and the Town Zoning Law ("Zoning Law") of the Town of Fleming, the Town Board may from time to time amend its Zoning Law as needed to clarify, supplement, reconcile, amend or correct provisions in that Law; and

WHEREAS, in consultation with Special Counsel, the Town Board has considered certain amendments to its Zoning Law and has selected those amendments to be the subject of a local law for enactment in accordance with its lawful authority; and

WHEREAS, Pursuant to General Municipal Law Sections 239(l) and (m), the proposed local law has been referred to the Cayuga County Department of Planning and Economic Development for review and comment, which Department has rendered comments that were duly considered and addressed by the Town Board and its professionals; and

WHEREAS, the Town of Fleming Planning Board has reviewed and considered the contents of the proposed local law, and has transmitted its recommendations on the law to the Town Board for the Board's consideration; and

WHEREAS, upon due notice, at regular meetings of the Town Board held on July 14 and August 11, 2014, the Town Board conducted a duly noticed public hearing to hear and consider public comments on the proposed local law; and

WHEREAS, the Town Board also addressed the project's environmental impacts pursuant to the State Environmental Quality Review Act ("SEQRA") on 9-17-2014, declaring and identifying the action as an Unlisted Action and declaring a Negative Declaration under SEQRA for the project, stating that no significant environmental impacts were identified for it, which Negative Declaration was approved by a vote of 4; and

WHEREAS, upon due notice, at a regular meeting of the Town Board for the Town of Fleming held on 9/17, 2014 at 9:35 A.m., the Town Board approved the enactment of the proposed local law amending the Zoning Law by a vote of 4; and

NOW, THEREFORE, BE IT RESOLVED,

that the Town of Fleming Town Board hereby enacts Local Law 2014-2 to amend the Zoning Law, the content of which is as follows:

1. The foregoing recitals are incorporated herein as if set forth at length.
2. Zoning Law Section 1-3 (Word Usage; Definitions) shall be amended to add the following definitions:

Brush – Uncultivated shrubs and immature trees.

Grass – Herbaceous ornamental plants intended to be periodically cut close to the ground for the establishment of a lawn or ground covering. Grass may also be used for ground covering or the establishment of drainage swales, flood routes or water detention or retention basins.

Nuisance Materials – Materials and objects that are not waste and are not considered garbage, litter, refuse or rubbish under this chapter, but which nevertheless pose a nuisance, blight or danger to public health, safety or welfare by virtue of their accumulation or scattering in publicly visible exterior locations such as lawns and porches for extended periods of time, i.e. more than 30 days. Nuisance materials may include, but are not limited to, such items as furniture, cookware, building materials (in the absence of an active building permit), scrap lumber, appliances, clothing/fabric, tires, empty barrels, any materials that could contribute to harborage of rodents, mosquitoes and other vectors, unregistered motor vehicles or vehicle parts, and abandoned, discarded, wholly or partially dismantled mobile homes.

Weeds – Wild, useless, poisonous or noxious and generally undesirable plants growing in random and inappropriate locations.

3. Zoning Law Section 7-19 (Dumping of Waste Material) shall be amended to read as follows:

7-19. Dumping of Waste Material

A. Purpose.

The purpose of this section shall be to protect and promote the health, safety and welfare of the people of the Town of Fleming insofar as they are affected by the occupancy and maintenance of structures, equipment and exterior property, and to prevent the gradual encroachment of blight, deterioration, unsightliness and property devaluation. All residential and nonresidential structures and premises within the Town of Fleming, whether improved or vacant, shall be maintained in conformity with the requirements, prohibitions and storage regulation provisions of this section.

B. Dumping, piling or accumulation of refuse, litter, garbage (other than in

closed containers which are regularly emptied in a lawful manner), waste material, nuisance materials or toxic or noxious substances is prohibited in every zoning district in the Town.

C. Brush, Grass and Weed Control.

- (1) The following regulations governing brush, grass and weed control are applicable to properties located in the following zoning districts: (R-1) Neighborhood Transitional District; (R-2) Residential District; (L) Lakeshore District; (WD) Waterfront Development District; (C) Commercial District; (H) Hamlet District; and (PDD) Planned Development District.
- (2) The owner or occupant of property located in the zoning districts listed in Section (C)(1) above shall ensure that all brush, grass and/or weeds is cut or trimmed to avoid the development of places for the accumulation of blowing litter, dumping of litter or nuisance materials, rodent harborage or infestation, criminal activity or places which constitute a blighting or unsightly influence on the neighborhood. Any trees, brush or portions thereof which are hazardous to persons or property must be trimmed or removed to eliminate the hazard.
- (3) No grass or weeds in excess of 10 inches in height shall be allowed in the zoning districts listed in Section (C)(1) above. Properties used for agricultural purposes and open or wooded lands are exempt from this requirement and are not required to be mowed.

D. Notice of Violation.

- (1) If conditions existing on the inspected property violate the provisions of this section, the Code Enforcement Officer shall serve or cause to be served a written notice of such violation, referred hereinafter as a notice of violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said property.
- (2) Said notice shall contain substantially the following: the name of the owner, lessee or occupant of the property; the address or location of the property, the identification of the property as the same appears on the current assessment roll, a statement of the conditions on the property deemed upon inspection to be in violation of this chapter; a demand that the refuse, litter, garbage, nuisance materials, brush, grass and/or weeds determined to be in violation of this chapter be removed from the property on or before 10 days after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this section and the notice given pursuant thereto within the time specified may

result in a duly authorized officer, agent or employee of the Town entering upon the property and removing such refuse, litter, garbage, nuisance materials, brush, grass and/or weeds and causing the same to be disposed of or otherwise destroyed, and that the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

- (3) Nothing contained herein shall require notice as a prerequisite to the issuance of a summons or appearance ticket for a violation of any of the provisions of this section.

E. Penalties.

- (1) Any person violating any of the provisions of this section shall be subject to the provisions of Zoning Law Article IV with regard to enforcement, remedies, fines and penalties.
- (2) Instead of or in addition to the aforementioned Article IV provisions, the Town may impose a civil penalty not exceeding one hundred dollars (\$100.00) upon any person who violates any provision of this chapter or who shall omit, neglect or refuse to do any act required thereby. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to an additional civil penalty without additional subsequent notice(s) having to be provided by the Town.
- (3) The imposition of penalties for any violation of this chapter shall not excuse the violation nor permit it to continue. The application of Article IV and/or the above civil penalty for a violation of this section shall not prevent the enforced removal of conditions prohibited thereby. The expenses of the Town in enforcing such removal, including legal fees, may be chargeable to a violator in addition to the criminal and civil penalties.
- (4) Correction of repeat or subsequent offenses occurring within the same calendar year shall be enforced by the Town in the same manner as described above, except new notice to the owner having control of the property will not be required for each repeat offense. After initial notification, such owner having control of the property will be presumed to have been given sufficient notice of violation of this section for the duration of the calendar year.

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of Fleming

Local Law No. 3 of the year 2015

A local law To add to the Zoning Law of the Town of Fleming under the Bulk and Use Table for uses
(Insert Title)

requiring a Special Uses Permit. Specifically, it is going to be added that

the Section requiring a Special Use Permit will include self storage building units

as a permitted use requiring a Special Use Permit in the Town's commercial district

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Fleming

as follows:

Which would amend the Town's Zoning Law to permit self storage units as a permitted use by Special Use Permit in the Town's commercial district. This law shall take effect immediately.

(If additional space is needed, attach pages the same size as this sheet, and number each.)