

TOWN OF FLEMING
2433 Dublin Road
Auburn, NY 13021
DEPARTMENT OF CODE ENFORCEMENT
315-252-8988, Ext 9

Re: Rental registration & Inspection Program

Dear Property Owner:

On October 14, 2020, the Fleming Town Board adopted Local Law 2 of 2020, a local law establishing a Rental Registration and Inspection Program for the Town of Fleming.

The purpose of the Rental Registration and Inspection Program is to protect the health, safety and welfare of both landlords and residents and to maintain the Town's rental stock through the participation of owners, tenants, the town and the community through annual building inspections and registrations. Every owner (landlord) will be required to register each rental unit in the Town. A separate registration will be required for each rental parcel. A Rental Unit Occupancy Permit will be needed before any unit can be occupied.

The Rental Unit Occupancy Permit will be issued following an inspection, interior and exterior, of the property to assure that all rental units in the Town comply with NYS Property Maintenance Code, Fire Code, Life Safety Code and Town of Fleming Municipal Code.

Effective January 1, 2021, no rental unit shall be let, rented or occupied by someone other than the owner until a "Rental Unit Occupancy Permit" has been issued. Upon registering, Property owners will receive a "Certificate of Registration" which will serve as a Temporary Rental Unit Occupancy Permit until an inspection is completed. Copies of the following are enclosed: Local Law, FAQ, Registration Form, Consent to Inspect Form and a Rental Property Checklist to help you with an evaluation of your property prior to inspection. These forms are also available on the Town's website at www.townoffleming.com. Registration forms and fees are due by April 1, 2021.

To register, owners must submit completed;

1. Registration Form.
2. Consent to inspect Form.
3. All required fees.

Fee schedule:

- Registration is \$30.00 per rental unit annually.
- Inspection fee is \$30.00 per rental unit.
- If the owner lives in one of the properties units, the inspection fee is \$15.00 per rental unit.
- There is a \$500.00 cap for total registration and inspection fees on multiple units in one (1) structure.

I can be reached at 315-374-3631 with any questions or concerns. Thank you.

Sincerely,

Harold Gilfus
Code Enforcement Officer

2/8/2021

TOWN OF FLEMING RENTAL PROPERTY REGISTRATION FORM

Please complete a separate registration form for each rental property or if your property has more than ten units

Part I. Rental Property Information:

A) Rental Property Address:										
B) Tax Parcel ID						C) Estimated Year Built:				
D) Number of Dwelling Units:										
Unit Number:	1	2	3	4	5	6	7	8	9	10
1) Number of bedrooms in subject unit:										
2) Off street parking spaces provided for subject unit:										
E) Location of Parking Spaces on the Property:										
F) If Tenants do not Park on the Property, Where do They Park?										

Part II. Owner (s) Information: (List all owners separately. If necessary, attach additional sheet)

1. Owner Name:		2. Owner Name:	
Address:		Address:	
Home Phone:	Work/Business Phone:	Home Phone:	Work/Business Phone:
3. Owner Name:		4. Owner Name:	
Address:		Address:	
Home Phone:	Work/Business Phone:	Home Phone:	Work/Business Phone:

Part III. Local Agent Information:

(Required if no owner lives in Cayuga, Onondaga, Oswego, Cortland, Tompkins, Seneca or Wayne Counties)

Local Agent Name:	
Address:	
Home Phone:	Work/Business Phone:
Signature:	Date:

Total Units	_____
Registration \$30.00 per unit =	_____
Inspection Fee \$30 per unit = (\$15.00 if owner occupied)	_____
Late Fees= (\$15.00 per unit after March 1st)	_____
Total Fee Enclosed	_____

Submitted by: _____ Date: _____ Rec'd By: _____

Signature: _____ Date Rec'd: _____

Please Print

PLEASE RETURN COMPLETED

RENTAL REGISTRATION AND INSPECTION PROGRAM

ITEM	COMMENT	FEE
Registration	Annual per Unit	\$ 30
Inspection	Scheduled per Unit	\$ 30
Inspection	Scheduled (owner occupied)	\$ 15
First Re-Inspection	Included	\$ 0
Second Re-Inspection	3 rd visit	\$ 50
Third Re-Inspection	4 th visit	\$100
Missed Inspections		\$ 30
Late registration	per Unit	\$ 15

After rental property has received an Inspection it will be rated as follows:

Category A - Excellent condition, both interior and exterior, with only minor violations and in full compliance by the 1st re-inspection. Building will be inspected in three (3) years.

Category B - Good condition, both interior and exterior, with moderate and/or numerous minor violations corrected by 1st re-inspection. Building will be inspected in two (2) years.

Category C - Any of the following:

1. Poor conditions, either interior or exterior;
2. Major violations;
3. Numerous violations;
4. Missed inspections;
5. Not in full compliance after the 1st re-inspection.
6. Court Appearance Ticket issued to bring into compliance, with any part of Rental Registration Program

Building will be inspected in one (1) year.

Rental Occupancy Permits are issued effective from date of first inspection.

TOWN OF FLEMING
OFFICE OF CODE ENFORCEMENT
315-252-8988, ext 9

RENTAL PROPERTY CHECKLIST

Dear Landlord,

The Town of Fleming has provided this checklist to you so that you can evaluate the condition of your rental property prior to a routine inspection. By using this guide, you may avoid a lengthy inspection and potentially costly re-inspection fees. While it is impossible to list every violation of the Fire and Property Maintenance Codes that may occur, this list contains violations that are commonly found during a routine inspection.

Exterior of Building and Accessory Buildings

- 1) Are the street numbers visible from the road? (4 inches high & ½ inch stroke width) Are the units properly marked?
- 2) Are the steps, decks and landings safe to use? Do they have level, uniform threads & risers?
- 3) Are handrails firmly fastened and capable of supporting normally imposed loads and in good condition?
- 4) Are guard rails present for all open porches, decks, landings higher than 30 inches above grade?
- 5) Is garbage properly stored? (In covered containers and at rear of building)
- 6) Is the yard free from rubbish and trash?
- 7) Is the yard free from noxious weeds? Is the grass less than 8 inches in height?
- 8) Is the house foundation free from holes, large cracks and openings?
- 9) Is the building and any accessory buildings free of excessive peeling paint? Is bare wood visible, does it show signs of rot or decay?
- 10) Are all windows in good repair and weather tight?
- 11) Are there any unregistered/licensed vehicles on the property?

Interior of Building

- 12) Do all exterior and unit entry doors have approved deadbolt locks?
- 13) Are screen and storm doors in safe condition with adequate hardware?
- 14) In a multi-family unit, do the fire doors (if required) self-close to latching?
- 15) Are the walls and ceilings free from peeling paint and loose plaster?
- 16) Are the floor coverings free of tripping hazards and capable of being cleaned?

Electrical System

- 17) Are all the electrical equipment, wiring and appliances installed properly and maintained in a safe and approved manner?
- 18) Are all cover plates for outlets, switches and junction boxes in place?
- 19) Is the electrical system free of hazards?
- 20) Is there a working light fixture present for every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room and furnace room?
- 21) Are extension cords being used properly by the tenants?

Heating System

- 22) Is the heating system capable of maintaining a room temperature of 68 degrees F. in all habitable rooms, bathrooms and toilet rooms?
- 23) Are all mechanical equipment, fireplaces and solid fuel-burning appliances installed properly and maintained in a safe working condition?
- 24) Are all fuel-burning heating equipment connected to an approved chimney or vent?
- 25) Does the fuel-burning equipment have a reliable source of combustion air?
- 26) Are all ducts free of obstruction?

Plumbing System

- 27) Does each unit contain a bathtub or shower, lavatory, water closet and kitchen sink that is maintained in a safe working condition and free of leaks?
- 28) Is the water heater properly installed and equipped with a temperature and pressure relief valve?
- 29) Do all plumbing stacks, vents waste and sewer lines function properly, free of obstructions and leaks?

Light, Ventilation and Occupancy Limitations

- 30) Does every habitable space have at least one operable window that faces directly to the outdoors?
- 31) Does the bathroom or toilet room have either an operable window or a mechanical means of ventilation?
- 32) Is the clothes dryer properly vented?
- 33) Does the unit meet the minimum space requirements for occupancy?
- 34) Sleeping in the basement is prohibited unless light, ventilation and egress standards are met.

Fire Safety

- 35) Are smoke alarms located on each floor of the unit, including the basement? Are smoke alarms located within all rooms used for sleeping? Are smoke alarms located just outside the immediate vicinity of bedrooms? Do all smoke alarms function properly?
- 36) Does every sleeping/bedroom have at least one operable window that meets emergency egress/rescue standards?
- 37) Are hallways, exit doors, egress windows and stairways unobstructed and clear of rubbish or storage?
- 38) Is there a three (3) foot clearance around any heating appliance or other source of ignition within the unit? (Does not include cooking stoves)

Infestation

- 39) Is the residence free from insect and rodent infestation?
The owner will be responsible for extermination prior to renting or leasing the structure. In single family residences the occupant will be responsible for the extermination. In a duplex or multi-family building the owner shall be responsible for the extermination in the public or shared areas of the structure and the exterior of the building.

**TOWN OF FLEMING
OFFICE OF CODE ENFORCEMENT
315-252-8988, ext 9**

CONSENT TO INSPECT

Property Address: _____ **Date:** _____

Property Owner: _____

Phone Number: _____

The Town of Fleming has initiated a life safety and property maintenance program for all rentals. Items for inspection include, but are not limited to, exterior and interior building maintenance, electrical, plumbing, heating/ventilation and life safety codes.

THE TOWN OF FLEMING REQUIRES THAT TENANTS PROVIDE WRITTEN CONSENT BEFORE AN INSPECTION CAN TAKE PLACE. THIS CONSENT WILL APPLY TO THE FIRST INSPECTION AND THOSE RELATED RE-INSPECTIONS.

Tenants/owners have the right to refuse an inspection/re-inspection. If an inspection is refused, the Town may seek other administrative and legal processes. No inspection or re-inspection will take place unless this form is completed by all tenants or directed by other authority.

Landlords will make every effort to contact the Tenants in advance of proposed date and time of inspection. Landlords will communicate with Tenants for all inspection scheduling and rescheduling.

Inspections will take place annually or as complaints are received. Certified Housing Inspectors will conduct a visual review of interior and exterior structure and maintenance issues as outlined in the Property Maintenance Code of New York State.

This consent shall be valid each year of the registration period. Consent may be revoked by notification in writing to:

**Code Enforcement Officer
2433 Dublin Road
Auburn, NY 13021**

Please have your tenants sign below:	Unit #	Consent?	
		Yes	No
1. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>
2. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>
3. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>
4. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>
5. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>
6. _____	_____	<input type="checkbox"/>	<input type="checkbox"/>

7.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
8.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
9.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
10.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
11.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
12.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
13.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
14.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
15.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
16.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
17.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
18.	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>

Owner/Agent verifies that these are the signatures of all tenants in this unit/building.

Owner/Agent Signature _____ **Date** _____

PLEASE RETURN COMPLETED

TOWN OF FLEMING RENTAL REGISTRATION AND INSPECTION

FAQ

The purpose of the Rental Registration and Inspection Program is to protect the rights, health, safety and welfare of both landlords and residents and to maintain the Town's rental housing stock through the participation of owners, tenants, the town and the community through annual building inspections and registrations.

DEFINITIONS:

Agent – a representative of a property owner or landlord at least eighteen (18) years old who resides within the designated boundaries of Onondaga, Madison, Oswego, Cortland or Cayuga County and legally authorized and identified to the Town to act in the owner's behalf in matters regarding the rental units.

Housing Inspector – any Code Enforcement Official authorized to inspect rental units.

Landlord – is any property owner or designated agent who offers a housing unit for occupancy to anyone other than the owner.

Rental Unit Occupancy Permit – a permit issued by the Town of Fleming stating that the referenced property and/or rental unit conforms to the standards of the Property Maintenance Code and Fire Code of New York State, the Life Safety Code and the Municipal Code of Fleming and that structure or rental unit is permitted for residential use. Any special circumstances or condition under which occupancy is permitted may be specified on that Rental Permit.

Rental Property – is any housing unit or units which is/are occupied by persons other than the owner.

Rental Unit - any housing unit within a Rental Property occupied by persons other than the owner.

Tenant – any person who occupies a non-owner occupied rental unit.

Unfit Rental Unit – is when a structure or unit(s) is found to be unsafe, unfit for human occupancy or is found unlawful.

What is the Rental Registry -

The Rental Registry will consist of a database containing relevant information regarding all non-owner occupied rental units in the Town of Fleming. The Town recognizes the need for Town departments, particularly in emergency situations, to be able to quickly contact the owner/agent of a property located in the Town. The data collected for this registry will include the name and address of the owner/agent and telephone numbers where the owner, or agent for the owner, can be reached at all times.

Why register rental properties -

Rental properties have been found to be some of the most neglected properties within a town and create a serious concern regarding rights, health, safety and welfare of tenants and also to the safety of emergency workers including Police, Fire and Ambulance Corps who may have to enter these premises. There are apartments where overcrowding exists and codes and ordinances are violated. Such premises encourage the deterioration of the housing stock, create blight as well as excessive vehicle traffic and parking problems and overburden the services of municipalities. The

registry will provide a Town wide system for identifying safety issues in rental properties and lay the foundation for a system of code enforcement in rental properties.

Who needs to register?

Anyone who rents or allows a residential dwelling unit to be occupied by someone other than the owner, including mixed use properties providing residential use. All landlords must register with the Town of Fleming within 30 days of the effective date of this legislation and each and every calendar year on or before February 1st thereafter, on a form provided by the Town of Fleming Code Enforcement. Landlords who live outside Onondaga, Madison, Oswego, Cortland or Cayuga County must register an agent on their behalf who does and is responsible for the rental property.

What happens when I receive my registration notice?

Registration notices will be mailed out in January and the Registration Form, Consent to Inspect and payment must be received by the Town by February 1st. Payment can be made in person or by mail. Checks must be made payable to the *Town of Fleming*.

What are the landlord benefits?

- 1) The protection of the character and stability of residential areas and preservation of the value of land and structures throughout the Town.
- 2) Force tenants to be accountable for issues such as respecting the occupancy limit, the lawful use of the rental unit and maintaining sanitary conditions.

How much is registration and how long is the registration good for?

Annual registration will be \$ 30.00 per rental unit.

Registration cannot be transferred to new owners.

Failure to pay registration fees within 30 days will result in fees being increased to \$ 45.00 per rental unit.

What is the cost of inspections and re-inspections?

*Inspections will be \$30.00 per rental unit including one (1) follow-up inspection due to bringing violations into compliance. There shall be a \$500.00 cap on multiple units in the same structure.

*A second re-inspection (3rd visit) due to bringing violations into compliance shall be \$ 50.00 per unit inspection.

* A third re-inspection (4th visit) due to bringing violations into compliance shall be \$ 100.00 per unit inspection.

* If a scheduled appointment is missed by the owner/agent, there will be a \$ 30.00 fee per unit.

Failure to pay registration fees and fines within 60 days will result in the charges being levied against and added as an additional tax to the subject property.

What will the fees collected be used for?

The fees collected by the Registration Program will be used by the Town to provide personnel for inspections, maintaining a database of properties, landlords and tenants, inspections reports, mailing correspondence of all notices, violations, re-inspections, administrative search warrants, court preparation and appearances and Code Enforcement services for rental properties.

Exemption from rental registration - All units annually monitored by the New York State Dormitory Authority.

Do I need a “Rental Unit Occupancy Permit”?

No rental unit shall be let, rented or occupied by someone other than the owner until a ‘Rental Unit Occupancy Permit’ has been obtained for that unit issued by the Department of Code Enforcement. A ‘Certificate of Registration’ will be issued upon initial registration of a rental property and will serve as a *‘temporary rental unit occupancy permit’* until you receive your first inspection. Occupancy will be prohibited without a Rental Unit Occupancy Permit and will result in issuance of an “ORDER TO VACATE” the occupants of the rental units.

No vacant property shall be rented until a Rental Unit Occupancy Permit is issued.

What happens if a tenant or owner refuses an inspection?

An “Administrative Search Warrant” will be requested from the courts and the inspector will return with the warrant and police personnel to make the inspection.

How soon, prior to inspection, will I be notified?

You will be notified at least 10 days prior to the inspection. If there is a time conflict owners will have 72 hours to call and reschedule. The maximum extension shall be seven (7) days.

What do inspectors look for during their inspections?

Inspectors will be enforcing the Property Maintenance Code and Fire Code of New York State, the Life Safety Code and applicable Town Ordinances. Items will include, but not limited to, exterior and interior building maintenance, electrical, plumbing, heating/ventilation, debris, zoning, improper vehicles on premises, and life safety codes such as exiting, emergency lighting and fire protection. View our *rental property inspection checklist* for further information.

How long do I have to fix the required repairs?

This will depend on the extent of the violation. Some items can be repaired in 1 -2 weeks while others will need more time for bids, etc. Inspectors are familiar with various tables and are willing to work with landlords on time frames within reason to complete repairs.

What happens if violations are not corrected on time?

After the inspection, a “Violation Notice” will be mailed with noted violations. If the violations **are corrected** within the time allotted the violations **will be dismissed**. If the violations are not corrected by the re-inspection date, an “Appearance Ticket” will be issued and a court appearance **will be required**.

Who will explain to the tenants why the inspection is being conducted?

The property owner shall notify tenants of the inspection and secure tenants’ permission for access. If tenants have any questions they should call the Department of Code Enforcement at 315-252-8988, ext 9.

Do I need to be present at the time of inspection?

YES, it is the responsibility of the owner or their designated agent to be present at the building on the date and time of inspection.

What is an Inspection Rating?

After your rental property has received an inspection it will be given a rating as follows:

- **Class A** – Excellent condition, minor violation(s) corrected by the first re-inspection.
Building will be inspected in three (3) years.
- **Class B** – Good condition, moderate and/or numerous minor violations corrected by the first re-inspection.
Building will be inspected in two (2) years.
- **Class C** – Major violations or the property is not in full compliance after the first re-inspection.
Building will be inspected in one (1) year.

If a property is found to be an *Unfit Rental Unit*, notice shall be made to vacate the property. No such property or units(s) shall be used again for human occupation until written approval and a Rental Unit Occupancy Permit is secured from the Code Enforcement Officer.

What are the penalties for offenses?

Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with any of the terms of this legislation shall be guilty of a violation and be subject to a fine of not more than \$1,000.00. Each week a violation continues shall be deemed a separate offense.

Town of Fleming Local Law 2020- 2

A Local Law Establishing a Property Rental Registry in the Town of Fleming

Be it enacted by the Town Board of the Town of Fleming, New York as follows:

Section 1. Title

The title of this local law shall be: “A Local Law Establishing a Property Rental Registry in the Town of Fleming”.

Section 2. Legislative findings, intent, and purpose

The Town Board hereby finds and determines that it is necessary and desirable to establish a Town-maintained registry of those residential properties within the Town being advertised for rental on a short-term or long-term basis, in order to: (a) provide a means of verifying that such rental properties adhere to all applicable State and local safety and building codes, to promote the safety of the tenants and neighboring properties; (b) ensure a local point of contact is available for each rental property, for emergency and/or compliance purposes; (c) provide an enforcement mechanism to handle violations; and (d) provide useful information on trends and patterns of land usage to the Town for purposes of future land use planning.

Section 3. Statutory authority

This chapter is enacted under the authority of Subparagraphs (a)(12) and (d)(3) of the Municipal Home Rule Law § 10(1)(iii) and Municipal Home Rule Law § 22. To the extent that the Town Law of the State of New York does not authorize the Town Board, Town Planning Board or Town Zoning Board of Appeals to handle applications or conduct procedures in the manner set forth within the Zoning Law Amendment, it is the expressed intent of the Town Board to change and supersede such statutes. It is the expressed intent of the Town Board to change and supersede Town Law §§ 64(17-a), 264, 265, 267, 267-a, 267-b, 274-a, 274-b, 276, 277, 278, and 280-a to empower the Town to provide its own specific procedures for its boards to handle applications and conduct procedures.

Section 4. Intent to Add to Existing Zoning Code

This Local Law No. 2020- 2 is intended to be added to and become a part of the existing Town of Fleming Zoning Law (originally adopted December 22, 2008 and amended thereafter).

Section 5. Body of Local Law

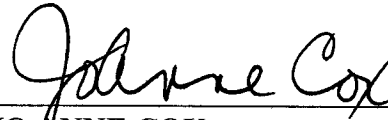
The body of Local Law No. 2020- 2 is attached hereto in its entirety as Exhibit “A”.

Section 6. Severability

If any section, clause or provision of this chapter or the application thereof to any persons is adjudged invalid, the adjudication shall not affect other sections, clauses or provisions or the application thereof that can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of this chapter are declared to be severable.

Section 7. Effective date

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.



JO ANNE COX
Town Clerk of the Town of Fleming
Cayuga County, New York

David Alb

James Elery

Karen Van Der

David MacDonald

Russ Bell - VIA ZOOM

EXHIBIT "A"

TEXT OF LOCAL LAW NO. 2020- 2

TOWN OF FLEMING
LOCAL LAW 2020-2

A Local Law Establishing a Property Rental Registry in the Town of Fleming

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 the establishment of a Town-maintained registry of those residential properties within the Town being advertised for rental on a short-term or long-term basis, in order to: (a) provide a means of verifying that such rental properties adhere to all applicable State and local safety and building codes, to promote the safety of the tenants and neighboring properties; (b) ensure a local point of contact is available for each rental property, for emergency and/or compliance purposes; (c) provide an enforcement mechanism to handle violations; and (d) provide useful information on trends and patterns of land usage to the Town for purposes of future land use planning; and

WHEREAS, the Town Board has proposed such rental registry 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 9/14/2020 and 10/14/2020 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 10/14/2020, 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 5; and

WHEREAS, upon due notice, at a regular meeting of the Town Board for the Town of Fleming held on 10/14/2020 at 6:30 p.m., the Town Board approved the enactment of the proposed local law amending the Zoning Law by a vote of 5; and

NOW, THEREFORE, BE IT RESOLVED,

that the Town of Fleming Town Board hereby enacts Local Law 2020- 2, the content of which is as follows:

1. The foregoing recitals are incorporated herein as if set forth at length.
2. A new Local Law shall be enacted, reading as follows:

Town of Fleming Property Rental Registry Local Law

§ 1 Definitions.

All terms used in this chapter shall have the meanings set forth below regardless of any inconsistent provisions elsewhere in the Town Code. Any terms not specifically defined herein shall have the same meaning as set forth in the Town of Fleming Zoning Law or, if not so defined therein, shall be defined by common usage.

DWELLING UNIT

One room or rooms connected together for owner occupancy or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities, designed for occupancy by one family.

FAMILY

- A. The following shall constitute a family hereunder:
 - (1) Any number of persons occupying a dwelling unit, provided that all are related by blood, marriage or legal adoption and provided that they live and cook together as a single housekeeping unit; or
 - (2) Any number of persons not exceeding four occupying a dwelling unit and living and cooking together as a single housekeeping unit, where not all are related by blood, marriage or legal adoption.
- B. A group of persons whose association or relationship is transient or seasonal in nature, rather than of a permanent and domestic character, shall not be considered a family.
- C. A group of unrelated persons numbering more than four and occupying a dwelling unit shall be presumed not to constitute a family. This presumption can be overcome only by a showing that:
 - (1) The group is one which in size, function and structure resembles a traditional family unit; and
 - (2) The group will live and cook together as a single housekeeping unit; and

- (3) The group is of a permanent nature and is neither a framework for transient or seasonal living nor merely an association or relationship which is transient or seasonal in nature; and
- (4) All other requirements of this chapter regarding the use and occupancy of the dwelling unit in which the group resides will be met.

A determination as to the status of such group may be made in the first instance by the Code Enforcement Officer or, on appeal from an order, requirement, decision or determination made by him, by the Zoning Board of Appeals.

- D. Persons occupying group quarters, such as a dormitory, fraternity or sorority house or a seminary, shall not be considered a family.
- E. Any determination under this definition that a particular group of persons constitutes a family shall constitute a determination as to the status of that particular group only and shall not be interpreted as authorizing any other occupancy, use or activity.

IMMEDIATE FAMILY

The owner's spouse, children, parents, siblings, grandparents or grandchildren.

OWNER

Any person, individual, association, entity or corporation whose name is listed as grantee on the last deed of record for the property, as recorded with the Cayuga County Clerk.

PERSON

Includes any individual, business, partnership, firm, corporation, enterprise, trustee, company, industry, association, public entity or other legal entity.

PUBLISH

Promulgation of an available rental property to the general public or to selected segments of the general public, in a newspaper, magazine, flyer, handbill, mailed circular, bulletin board, sign, website, or electronic media.

RENT

A return, in money, property or other valuable consideration (including payout in kind or services or other thing of value), for the use and occupancy or the right to the use and occupancy of a rental property, whether or not a legal relationship of landlord and tenant exists between the owner and the occupant or occupants thereof.

RENTAL PROPERTY

A dwelling unit which is occupied for habitation as a residence by persons, other than the owner or the owner's immediate family, and for which rent is received by the owner, directly or indirectly, in exchange for such residential occupation. The term "rental property" shall include single-family houses, two-family houses, and apartments but shall not include:

- A. Legally existing hotels, motels, and bed-and-breakfasts providing short-term transient accommodations;

- B. Any affordable or senior multifamily dwelling unit developments owned and/or managed by a not-for-profit organization;
- C. Condominiums or residential cooperatives.

TENANT

An individual who leases, uses or occupies a rental property.

§ 2 Registration required.

- A. Registration required. It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property, by other than the owner or owner's immediate family, without having first registered the property as a rental property with the Town Code Enforcement Department by the filing of a rental property registration form or rental property registration renewal form deemed complete by the Code Enforcement Officer.
- B. Rental registration number required.
 - (1) It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property, by other than the owner or owner's immediate family, without first obtaining a rental registry number from the Code Enforcement Office for the specific premises used as a rental property.
 - (2) It shall be unlawful and a violation of this chapter for any person to use a rental property that does not have a valid rental registry number from the Code Enforcement Office for the specific premises used as a rental property.
- C. Rental registration update required. It shall be unlawful and a violation of this chapter for any person or entity owning, renting or leasing a rental property within the Town to rent, lease or permit the occupancy of such rental property, by other than the owner or owner's immediate family, without having filed a rental registration update if there shall be a change in conditions as set forth in § 3(C) of this chapter.
- D. Use prohibited. It shall be unlawful and a violation of this chapter for any person or entity to use or occupy a rental property without that property being validly registered as a rental property with the Town Code Enforcement Office.
- E. Failure to publish rental registry number. It shall be unlawful and a violation of this chapter for any person or entity to cause to be published any advertisement for the rental of any residential property in the Town of Fleming without including the rental property registration number for said property in the advertisement.

§ 3 Registration Process.

- A. Rental property registration form. Rental property registration forms shall be made in a sworn or affirmed writing by the property owner to the Code Enforcement Office on a form provided therefor. To the extent the Town may make on-line registration available, applicants may utilize such system. Such application shall, at a minimum, set forth:
- (1) The names, physical addresses, mailing addresses, telephone numbers and e-mail address of the property owner(s).
 - (2) The name, physical address, mailing address and telephone numbers of an agent designated by the owner to act in the owner's stead, if any.
 - (3) The street address and Cayuga County Tax Map designation of the rental property.
 - (4) The length of tenancy and number of tenants, if known. Properties may be registered without a known tenancy or term. In the event a property is registered without tenant information, a rental property update form shall be filed when the number of tenancy and term of tenancy becomes known, but in any event prior to commencement of a rental tenancy.
 - (5) The number of rooms, the number of bedrooms, and the square footage of each respective bedroom in the rental property.
 - (6) A copy of the latest certificate of occupancy for the property issued by the Town of Fleming.
 - (7) A completed and notarized rental property inspection checklist, in a form approved by the Town Code Enforcement Office, sworn to by the property owner.
 - (8) The name, address, telephone number, fax number and e-mail address for the person or entity within the boundaries of Cayuga County that is authorized to accept service of process on the owner's behalf.
- B. Rental registration number. Upon filing of a rental property registration form or rental property renewal form and it being deemed complete by the Code Enforcement Officer, and the filing of the registration fee, each rental property will be assigned a unique rental registration number for the rental property.
- C. Change in conditions. In the event that any information required on the rental property registration form should change during the effective period of the rental registration, including, but not limited to, the change in tenants, rental period or term, the commencement of a new rental period or term, the number of tenants, or the number of bedrooms, the property owner shall immediately notify the Town by delivering a sworn or affirmed written notice of such change, along with any requisite fees for such rental property registry update, to the Code Enforcement Office, which shall include such notice in the records for the rental registry.
- D. Change in ownership. A change in ownership of the rental property shall void the rental registration number. Any new owner will be required to file a

new rental property registration form and provide a new registration fee. Upon the Code Enforcement Officer finding the form complete and receiving the registration fee, the Code Enforcement Office shall assign a new rental registration number.

- E. Registration and update fees. All fees are nonrefundable, and the registration fee, renewal registration fee, and registry update fee shall be in an amounts established by the Town Board by resolution and amended from time to time as the Board may deem appropriate. All fees shall be paid upon the filing of a rental property registration form, rental property renewal form or rental property registry update.
- F. Presumption of rental occupancy. Any single-family residence, or any other premises subject to the provisions of this chapter, shall be presumed to be a rental property if such premises is not occupied by the legal owner thereof. This presumption shall be rebuttable.
- G. Maintenance of registry. It shall be the duty of the Code Enforcement Office to maintain the rental property registry pursuant to this section. Such register shall be kept by Tax Map number, rental property registration number, street address showing the name and address of the owner, the number of conventional bedrooms in the single-family residence at such street address, and the number of persons allowed to occupy that residence pursuant to the provisions of the Town Code and New York State Uniform Fire Protection and Building Code.
- H. Verification. The Codes Enforcement Office is specifically authorized under this law to undertake inspections of rental properties to verify their compliance with all applicable provisions of the Town Code and New York State fire and safety requirements. By registering a rental property pursuant to this law, the property owner grants permission for such compliance inspections to be made at reasonable times; advance notice of such inspection shall be provided to the owner or the owner's representative, if practicable.
- I. Rental registration term. The registration of a rental property will expire two years after the date that the registration form is deemed complete by the Principal Code Enforcement Officer.
- J. Rental property registration renewal form. Property owners shall apply to renew their rental property registration(s) in writing using forms provided by the Town and shall submit same to the Code Enforcement Office. To the extent the Town may make online registration available, applicants may utilize such system. Such application shall, at a minimum, set forth:
 - (1) The names, physical addresses, mailing addresses and telephone numbers of the property owner(s).
 - (2) The name, physical address, mailing address and telephone numbers of an agent designated by the owner to act in the owner's stead, if any.

- (3) The street address and Cayuga County Tax Map designation of the rental property.
- (4) The length of tenancy and number of tenants, if known. Properties may be registered without a known tenancy or term. In the event a property is registered without tenant information, a rental property update form shall be filed when the number of tenancy and term of tenancy becomes known, but in any event prior to commencement of a rental tenancy.
- (5) The number of rooms, the number of bedrooms, and the square footage of each respective bedroom in the rental property.
- (6) A copy of the latest certificate of occupancy for the property issued by the Town of Fleming, or a report from a licensed architect, licensed engineer or licensed home inspector, that is deemed satisfactory per the sole discretion of the Code Enforcement Office.
- (7) A completed and notarized rental property inspection checklist, in a form approved by the Code Enforcement Office, sworn to by the property owner.
- (8) Any previous rental registration number of the rental property.

§ 4 Presumptive evidence dwelling unit is being used as rental property.

A. The presence or existence of any of the following shall create a presumption that a dwelling unit is being used as a rental property:

- (1) The property is occupied by someone other than the owner or his/her immediate family.
- (2) Voter registration, motor vehicle registration, a driver's license, or any other document filed with a public or private entity which states that the owner of the rental property resides at an address other than the rental property.
- (3) Utilities, cable, phone or other services are in place or requested to be installed or used at the premises in the name of someone other than the record owner.
- (4) Persons residing in the dwelling unit represent that they pay rent to occupy the premises.
- (5) A dwelling unit which has been published as being available for rent or lease, regardless of whether it is actually being occupied for that purpose.

B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 5 Presumptive evidence of multifamily occupancy.

- A. It shall be presumed that a single- or one-family dwelling unit is occupied by more than one family if any two or more of the following features are found to exist on the premises:
- (1) More than one mailbox, mail slot or post office address.
 - (2) More than one gas meter.
 - (3) More than one electric meter annexed to the exterior of the premises.
 - (4) More than one doorbell or doorway on the same side of the dwelling unit.
 - (5) More than one connecting line for cable television service.
 - (6) More than one antenna, satellite dish, or related receiving equipment.
 - (7) There are more than four motor vehicles registered to the dwelling.
 - (8) There are separate entrances for segregated parts of the dwelling.
 - (9) There are partitions or internal doors which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms.
 - (10) There exists a separate written or oral lease or rental arrangement, payment or agreement for portions of the dwelling among the owner and/or occupants and/or persons in possession thereof.
 - (11) Any occupant or person in possession thereof does not have unimpeded and/or lawful access to all parts of the dwelling unit.
 - (12) Two or more kitchens, each containing one or more of the following: a range, oven, hotplate, microwave or other similar device customarily used for cooking or preparation of food and/or a refrigerator.
 - (13) There are bedrooms that are separately locked.
- B. If any two or more of the features set forth in Subsection A(1) through (13) directly above are found to exist on the premises by the Code Enforcement Office, a verified statement will be requested from the owner of the dwelling unit by the Code Enforcement Office that the dwelling unit is in compliance with all of the provisions of the Code of the Town of Fleming, the laws and sanitary and housing regulations of the County of Cayuga and the laws of the State of New York. If the owner fails to submit such verified statement, in writing, to the enforcement authority within 10 days of such request, such shall be deemed a violation of this chapter.

§ 6 Presumptive evidence of owner's residence.

- A. It shall be presumed that an owner of a rental property does not reside within said rental property if any of the following documentation sets forth an address for the owner other than that of the rental property:
- (1) Voter registration;

- (2) Motor vehicle registration;
 - (3) Driver's license; or
 - (4) Any other document filed with a public or private entity.
- B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 7 Presumptive evidence of over-occupancy.

- A. It shall be presumed that a bedroom is over-occupied if the number of mattresses in a bedroom exceeds the maximum number of occupants permitted for the bedroom pursuant to Town Law and New York Fire Protection and Building Code.
- B. The foregoing may be rebutted by evidence presented to the enforcement authority or any court of competent jurisdiction.

§ 8 General applicability of presumptions.

The presumptions set forth in §§ 4, 5, 6 and 7, subject to the limitations contained therein, shall also be applicable to the enforcement and the prosecution of building and zoning Town Code violations.

§ 9 Penalties for offenses.

- A. A violation of this chapter by the owner(s) and/or tenant(s) shall be punishable as follows:
 - (1) A violation of § 2(E) (Failure to publish rental registry number) is hereby declared to be an offense punishable by a fine not less than one hundred fifty dollars (\$150) nor more than one thousand dollars (\$1,000) for each and every separate failure to publish.
 - (2) A violation of any other section of this chapter is declared to be an offense punishable by a fine not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), for a conviction of a first offense.
 - (3) A second or subsequent violation of any section of this chapter within an eighteen-month period is hereby declared to be an offense punishable by a fine not less than three thousand dollars (\$3,000) nor more than ten thousand dollars (\$10,000).
 - (4) For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of this chapter, other than § 2(E), shall be deemed violations, and, for such purpose only, all provisions of law relating to violations shall apply. Each day's continued violation shall constitute a separate additional violation.

- B. Additionally, in lieu of imposing the fines authorized in § 9(A), in accordance with Penal Law § 80.05(5), the court may sentence the defendant(s) to pay an amount, fixed by the court, no less than the applicable minimum statutory fine permitted under § 9(A) nor more than double the amount of the rent collected over the term of the occupancy.
- C. Upon motion of the prosecuting attorney, the court may dismiss the violation or reduce the minimum fine imposed where it finds that the defendant had cooperated with the Town of Fleming in the investigation and prosecution of a violation of this chapter. Factors which the court may consider include, but are not limited to, a report from the office of the Town Attorney confirming that the defendant did in fact cooperate and whether:
- (1) The defendant reported the violation(s) to the Town of Fleming;
 - (2) The defendant assisted the Town of Fleming in investigating and prosecuting the violation(s);
 - (3) The defendant provided access to the rental property;
 - (4) The defendant promptly pursued his/her/its own rights under the lease to remedy the violation or adequately pursued an eviction proceeding;
 - (5) All violations existing at the rental property have been promptly remediated.
- D. Where authorized by a duly adopted resolution of the Town Board, the Town Attorney may bring and maintain a civil proceeding, in the name of the Town, in the Supreme Court, to temporarily, preliminarily and permanently enjoin the person or persons conducting, maintaining or permitting said violation. The owner and tenants of the residence wherein the violation is conducted, maintained or permitted may be made defendants in the action.
- E. If a finding is made by a court of competent jurisdiction that the defendants, or any of them, have caused, permitted, or allowed a violation of this chapter, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$1,000 for each day it is found that the defendants, or any one of them, individually, collectively, or in conjunction with other(s) caused, permitted or allowed the violation.