# ZONING ORDINANCE OF THE TOWN OF RUSHFORD

Effective 2013

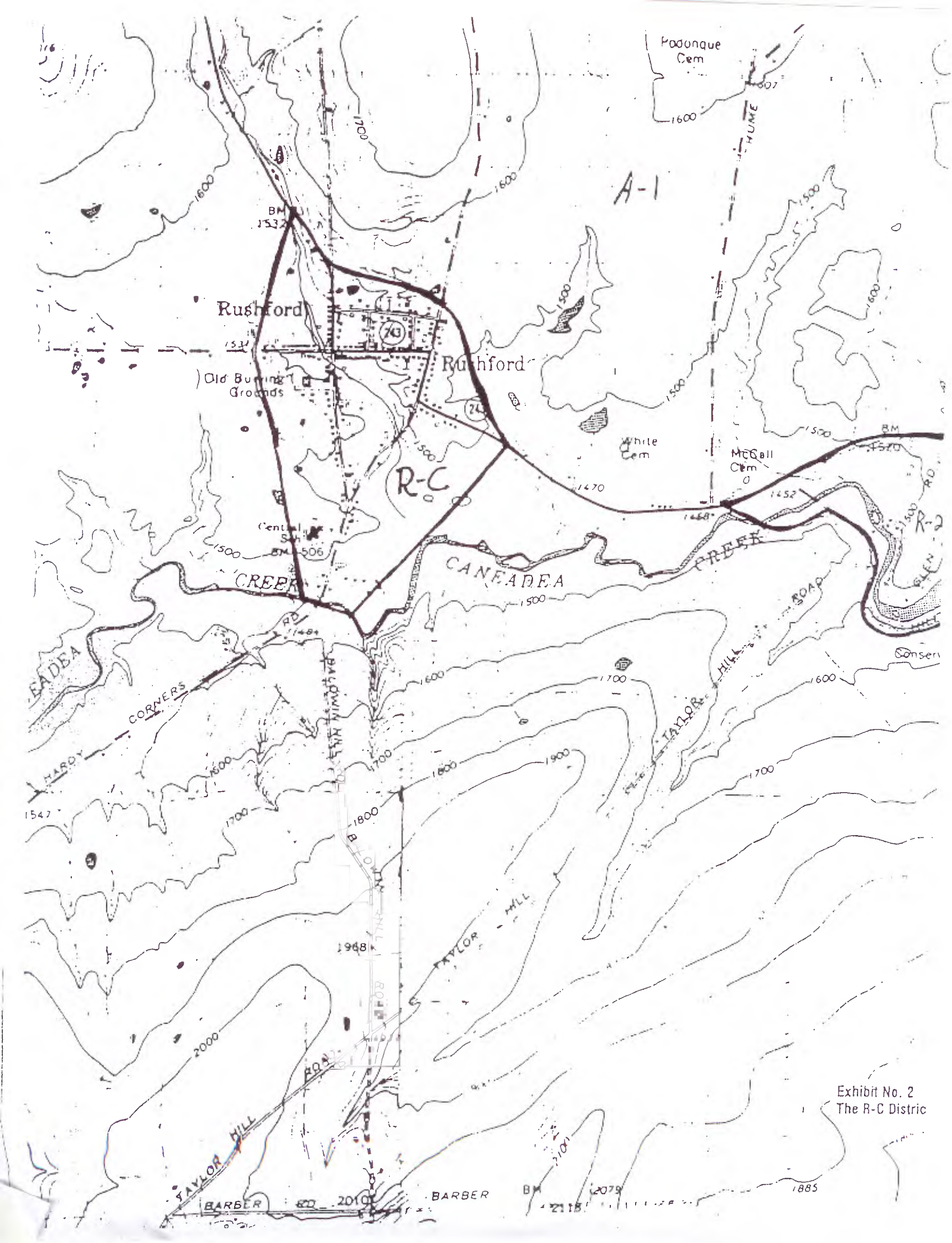



Exhibit No. 2
The R-C Distric

# ZONING ORDINANCE

**Town of Rushford**
**Allegany County**
**State of New York**

## *ARTICLE 1 - SHORT TITLE*

This ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Rushford, Allegany County, State of New York.

## *ARTICLE 2 - INTENT AND PURPOSE*

For the purpose of promoting the public health, safety, morals, comfort and general welfare; conserving and protecting property values; securing the most appropriate use of land; and facilitating adequate but economical provision of public improvements, the Town Board of Rushford finds it necessary and advisable to regulate the location, size, and use of buildings and other structures; percentages of lot area which may be occupied, setback building lines; sizes of yards, courts and other open spaces; and the use of land for trade, industry, residences, recreation, or other purposes, and for such purpose, divides the Town of Rushford into districts or zones.

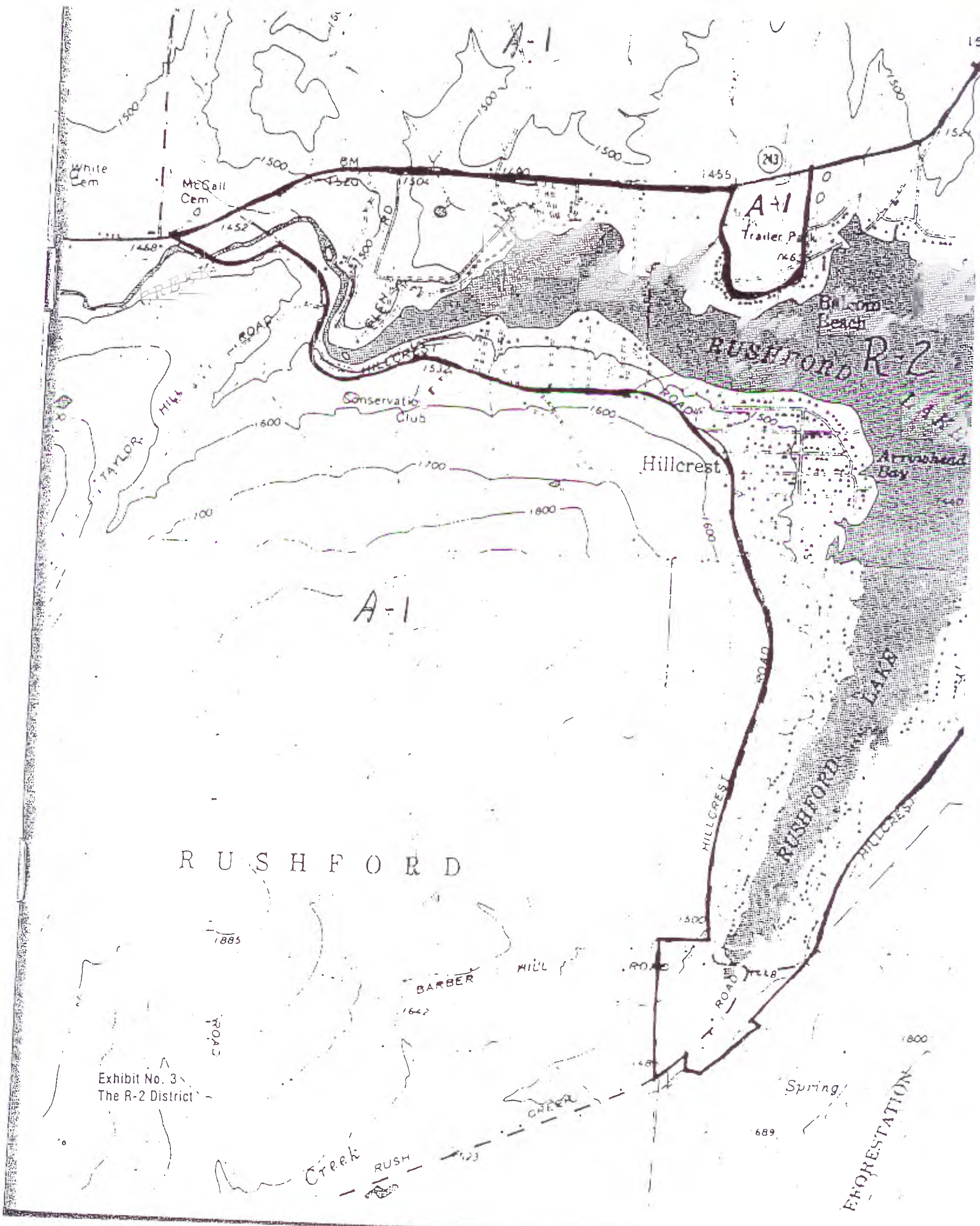



Exhibit No. 3
The R-2 District

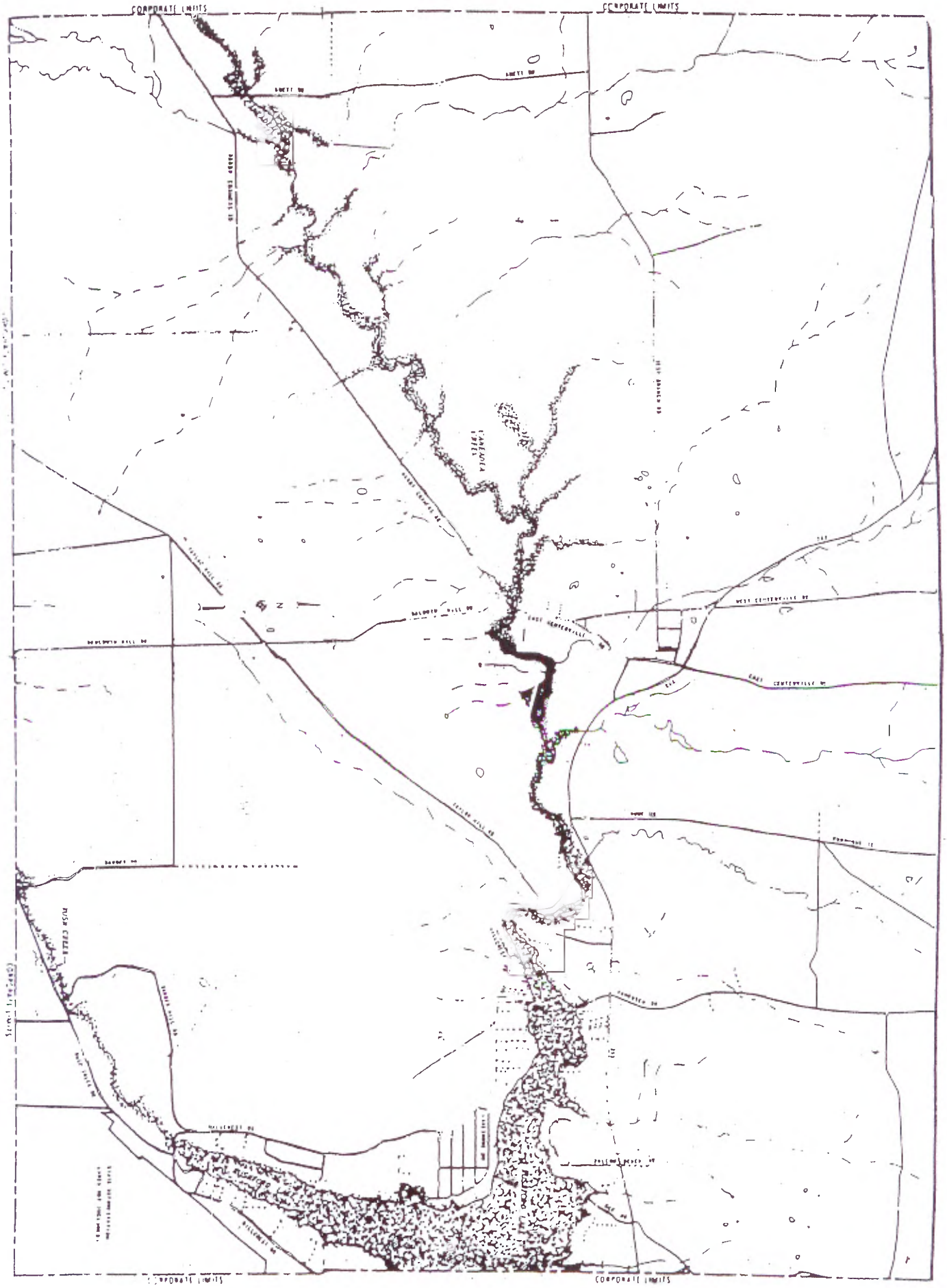
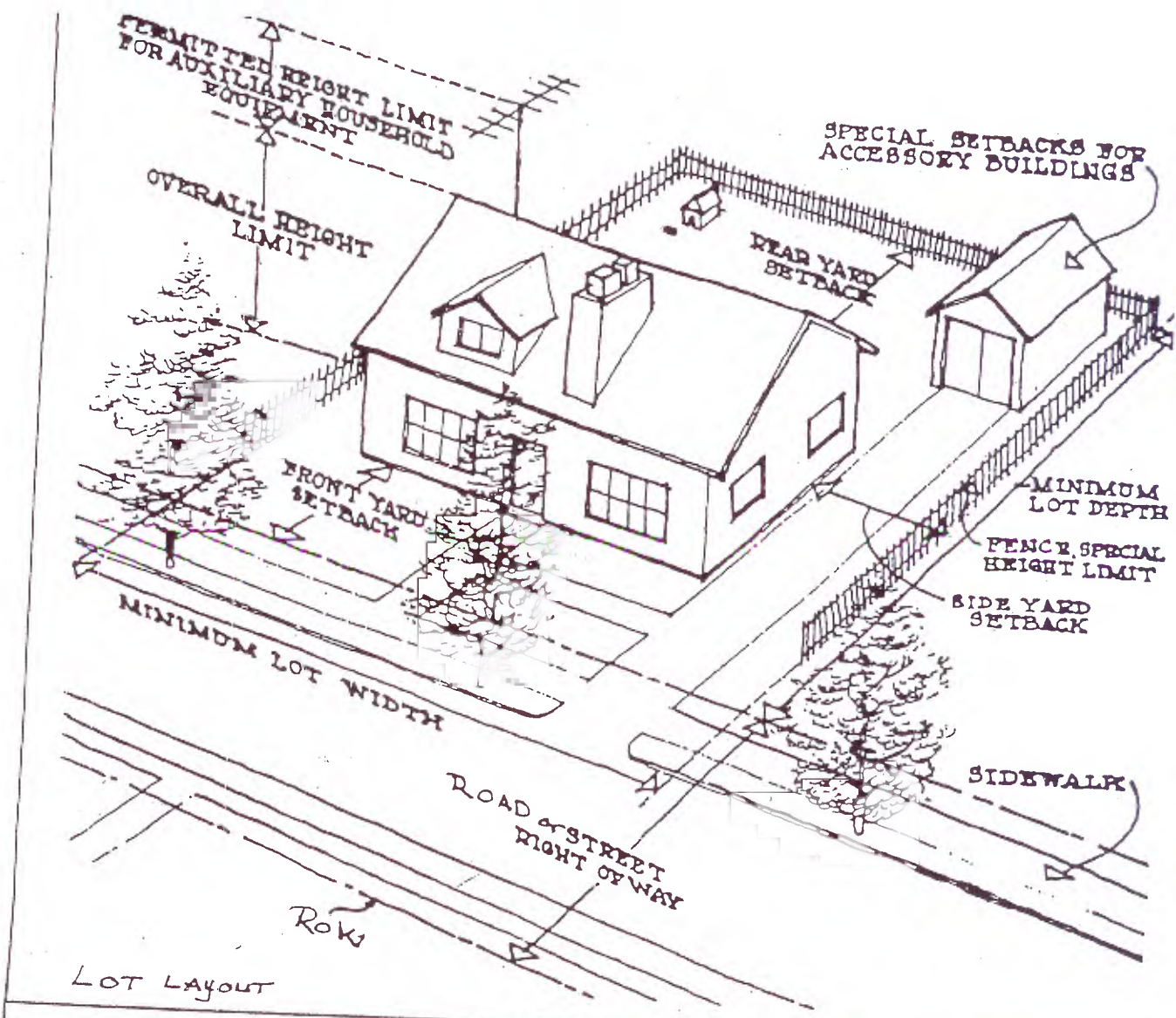
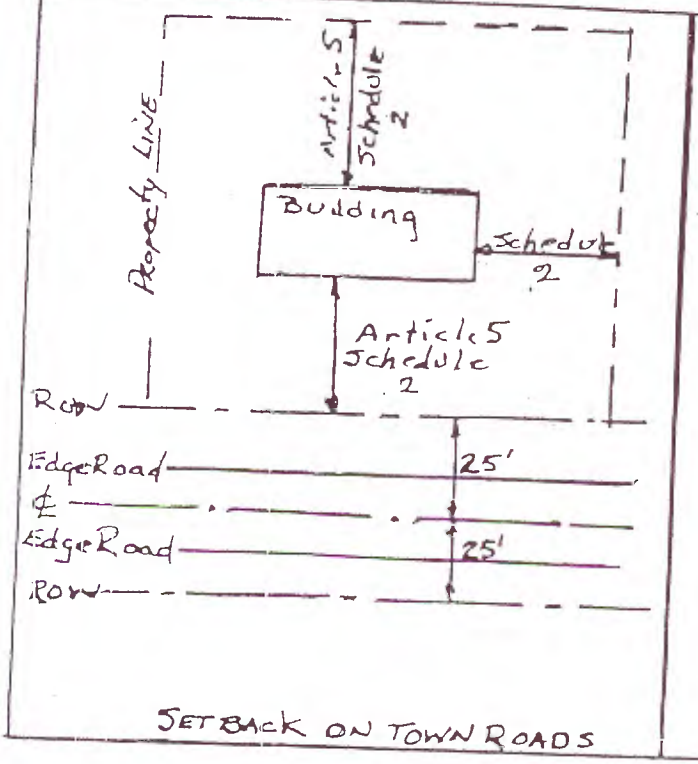


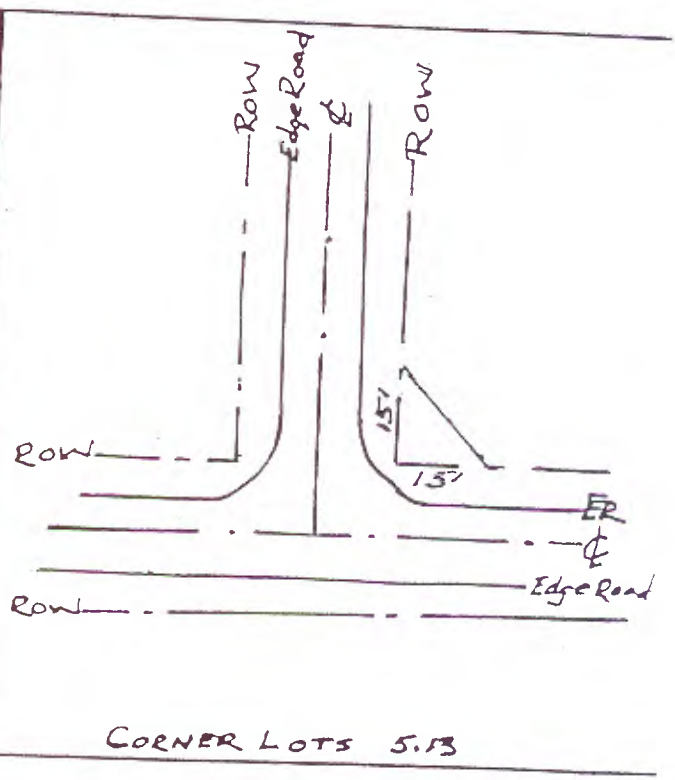

Exhibit No. 4
Flood Hazard Area




LOT LAYOUT




SETBACK ON TOWN ROADS




CORNER LOTS 5.13

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## ARTICLE 3 - RULES AND DEFINITIONS

In the construction of this ordinance, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

3.1 Interpretation

Words used in the present tense include the future; the singular; the word structure shall include the word building; the word used shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used; and the word shall is mandatory and not optional.

3.2 Definitions

1) **ACCESSORY USE OR STRUCTURE.** A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building.

2) **ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-picture machines, or projectors, or other image –producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

3) **ADULT BOOKSTORE OR VIDEO STORE.** A commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

   a) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures,
   video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas.

   b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be defined as an "adult bookstore" so long as one (1) of its principal business purposes is offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.

4. **ADULT CABARET.** A nightclub, bar, restaurant or similar commercial establishment which regularly features:

a..) Persons who appear in a state of nudity; or
b.) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities or
c.) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

5. **ADULT MOTEL.** A hotel, motel, or similar commercial establishment which:

   a.) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
   b.) Offers sleeping rooms for rent for a period of time that is less than ten (10) hours; or
   c.) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

6. **ADULT MOTION-PICTURE THEATER.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
7. **ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specified anatomical areas.
8. **ADULT USES.** Adult arcades, adult bookstores, adult cabarets, adult motels, adult motion-picture theaters, adult theaters, adult video stores, escort agencies, nude model studios and sexual encounter centers.
9. **ADVERSELY AFFECTS.** Means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
10. **AGRICULTURE, ANIMAL WASTE FACILITY.** An above ground structure, or inground lagoon designed to hold and store agricultural animal wastes for an extended period of time for future disposal.
11. **AGRICULTURE, USE OF.** Land, excluding necessary structures, that has as its principal use the raising or keeping of livestock and/or the growing of crops in the open.
12. **ALTERATIONS.** As applied to a building or structure, a change of re-arrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
13. **AREA, BUILDING.** The totals of areas taken on a horizontal plan at the main grade level of the principal building and all accessory buildings including uncovered porches, terraces, decks, steps and patios.
14. **AREA OF SPECIAL FLOOD HAZARD.** Means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.
15. **AUTOMOBILE GRAVEYARD.** Any site containing three or more inoperative motor vehicles which are unlicensed and which have been permanently removed from the use for

which they were originally manufactured, with or without the dismantling, salvage, sale, or other use of the same, including sale of automobile parts.

16. **AUTOMOBILE SERVICE STATION.** A building or place of business where gasoline, oils and greases, batteries, tires and automotive accessories are supplied and dispensed directly to the motor vehicle trade at retail, and where minor repair service is rendered, including car washing.
17. **BASE FLOOD.** Means the flood having a one percent chance of being equaled or exceeded in any given year.
18. **BOARD.** The Town Board of Rushford, County of Allegany, State of New York.
19. **BOARDING HOUSE.** A dwelling in which more than three persons individually or as families are housed or lodged for hire with or without meals, without complete housekeeping facilities. A rooming house or a furnished rooming house shall be deemed a boarding house.
20. **BOARD OF APPEALS.** The Zoning Board of Appeals of the Town of Rushford, County of Allegany, State of New York.
21. **BUILDABLE AREA.** The space remaining on a zoning lot after the minimum open space requirements of this ordinance have been complied with.
22. **BUILDING.** Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.
23. **BUILDING HEIGHT.** A vertical distance measured from the mean level of the ground surrounding the building to the highest point of the roof, but not including chimneys, spires, towers, tanks, and similar projections.
24. **BUILDING, PRINCIPAL.** A structure in which is conducted the principal use of the site on which it is situated. In any residential district any dwelling shall be deemed to be a principal building on the district lot on which the same is located. If in a R-C district, the principal building is the one in which the commercial or manufacturing endeavor is conducted. In the agricultural district the dwelling will be considered the principal building. In the absence of a dwelling the main barn will be considered the principal building.
25. **BUILDING SETBACK LINE.** A line parallel to the street line and adjoining lot line at a distance regulated by the yard requirements set up in this ordinance.
26. **CAMP AND/OR RECREATIONAL VEHICLE PARK.** Any one or more of the following other than a hospital, a place of detention, or a school offering general instruction.

    Type 1 Any area of land or water on which are located two or more cabins, tents, trailers, shelters, houseboats, or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise; or

    Type 2. Any land, including any building system used for any assemble of persons for what is commonly known as "day camp" purposes, and any of the forgoing establishments whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals or families or groups.

27. **CODE ENFORCEMENT OFFICER.** A person appointed by the Town Board to enforce this law. Any reference in this ordinance or in town legislation to the Zoning

Officer shall refer to the Code Enforcement Officer.

28. **CLUB OR LODGE.** A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for social, educational or recreational activity, customarily carried on as a business but not primarily for profit or to render a service which is for profit.
29. **COMPOSTING** The containment of a mixture of decaying matter to be used for fertilizer.
30. **COMMERCIAL ESTABLISHMENT.** An establishment engaged in buying goods for resale to the general public or personal or household consumption. Commercial establishments shall not be deemed to include establishments specifically listed in this ordinance.
31. **CORN CRIB.** A semi-enclosed storage facility for ear corn.
32. **COVERAGE.** That percentage of the plot or land area covered by the building area.
33. **DEVELOPMENT.** Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structure, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.
34. **DWELLING.** A building or portion thereof designed or used exclusively for residential occupancy, including one family dwelling units, two family dwelling units, multiple family dwelling units, and mobile homes, but not including hotels, motels, boarding or lodging houses.
35. **DWELLING UNIT.** A building or portion thereof providing complete housekeeping facilities for one family.
36. **ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
37. **ESCORT AGENCY.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
38. **ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or governmental agencies of collection, communication, transmission, distribution or disposal systems necessary for the furnishing of adequate public service or for public health, safety or general welfare, but not including buildings.
39. **ESTABLISHMENT, ADULT.** Any of the following:

    A. The opening or commencement of any sexually-oriented business as a new business.
    B. The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business.
    C. The additions of any sexually-oriented business to any other existing sexually-oriented business.
    D. The relocation of any sexually-oriented business.

40. **FAMILY.** One or more persons living together in one dwelling unit and maintaining a common household.
41. **FARM.** A plot of land including necessary structures which is used for one or more of the following:

A. Tillage of land to produce food or fiber to be consumed directly or indirectly by humans or livestock or fowl;
B. Grazing land and its crops to feed domestic animals or fowl;
C. Raising of Livestock for commercial purposes including Fur Farms & Fish Farms;
D. Raising of poultry in confinement for meat or eggs;
E. Production of trees, timber, and field or greenhouse production of ornamental plants, shrubs, and flowers.

42. **FEED BINS.** Boxes or enclosed spaces for storing feed which contain a maximum of twenty (20) tons, or 100 square feet or less.
43. **FENCE.** A barrier enclosing or bordering a field, yard, etc., used to prevent entrance, to confine, or to mark a boundary.
44. **FLOOD OR FLOODING.** Mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

    A. The overflow of inland waters and/or
    B. The unusual and rapid accumulation or runoff of surface waters from any source.

45. **FLOOD HAZARD BOUNDARY MAP (FHBM).** Means the official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A, and dated September 6, 1974, and any revisions thereto.
46. **FLOOR AREA.** The total area on the ground floor of any structure.
47. **FLOOR AREA, GROSS.** The sum of the gross horizontal areas of the several floors of a building, or portion thereof, devoted to such use including accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production of goods or to business or professional offices.
48. **FUEL BULK STATION.** A place where crude petroleum, gasoline, naphtha, benzene, benzol, kerosene or other flammable liquid which has a flash point at or below two hundred (200) degrees Fahrenheit (closed cup tester), is stored for wholesale purposes where the aggregate capacity of all storage tanks is more than eight thousand (8,000) gallons, regardless of whether the fuel is stored above the ground, underground, or in mobile tank cars or trucks.
49. **GRAIN STORAGE BUILDING.** An enclosed storage facility for small grains such as oats, wheat, barley, shelled corn, and which is not airtight, and has a floor area of one hundred (100) square feet or more; for example, a Butler building.
50. **HOME OCCUPATION.** An accessory use of a service character customarily conducted within a dwelling by the residents thereof which is clearly secondary to the use of the building for living purposes and does not change the character thereof or have any exterior evidence of such secondary use other than as allowed by this law and in connection therewith there is not involved the keeping of stock in trade, provided that said use does not occupy more than one-fourth (1/4) of the floor area in said principal residential building or such equivalent in accessory building and that not more than one paid assistant be therein employed. Mortuary establishments, stores, eating establishments, tourist homes, and manufacturing establishments of any kind shall not be deemed to be home occupations.
51. **HOTEL, MOTEL, INN, TOURIST, BED & BREAKFAST OR AUTO COURT.** An

establishment containing lodging accommodations designed for use, by transients or travelers or temporary guests.

52. **INSPECTOR, BUILDING.** The Building Inspector of the Town is the Code Enforcement Officer of the Town.
53. **JUNK YARD.** An area of land, with or without buildings, primarily used for the storage outside, or in a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, metal, building materials, or house furnishings.
54. **LAGOON.** A man made pit designed to hold and store agricultural wastes for an extended period of time for future disposal.
55. **LIVESTOCK.** Domestic animals kept for use on a farm or raised for sale or profit, such as cattle, horses, swine, sheep, goats, and poultry.

56. **LODGING OR ROOMING HOUSE.** A building with not more than three self contained guest rooms where lodging is provided for compensation pursuant to previous arrangements. (See No. 12)
57. **LOT.** A piece or parcel of land occupied or intended to be occupied by a principal building, or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this ordinance.

    A. LOT, CORNER. A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less then one hundred thirty-five (135) degrees. The point of intersection of the street lot lines is the "corner".
    B. LOT DEPTH. The mean horizontal distance between the front and rear lot lines.
    C. LOT LINES. The property lines bounding the lot;

        1. LOT LINE, FRONT. The line separating the lot from the street.
        2. LOT LINE, REAR. The line opposite and most distant from the front lot line.
        3. LOT LINE, SIDE. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
        4. LOT LINE, STREET. A lot line separating the lot from a street.

58. **LOT OF RECORD.** Any lot which individually or as part of a subdivision was officially recorded in the office of the Clerk of Allegany County on or before *May 15, 1975,* and which has not been combined with one or more adjacent lots as provided in section 6.1(A).
59. **LOT, THROUGH.** A lot having frontage on two (2) parallel or approximately parallel streets and which is not a corner lot.
60. **LOT, NON CONFORMING.** Any district lot which was subdivided prior to May 15, 1975, and which does not conform with the minimum depth, width and area dimensions specified for the district in which the said lot is located.
61. **MAJOR STRUCTURE.** Anything constructed or erected requiring more than one hundred (100) square feet of floor area, located on the ground or attached to something having location on the ground.
62. **MANUFACTURING.** The making of goods and articles by hand or machine process. Restricted manufacturing shall be considered to be any manufacturing or industrial processing which by the nature of materials, equipment and process utilized is to a considerable measure clean, quiet and free of any objectionable or hazardous element. All

manufacturing permitted in any district shall comply with the performance requirements set forth herein.

63. **MOBILE HOMES OR TRAILERS OR MANUFACTURED HOMES.**

A. PERMANENT MOBILE HOME OR TRAILER. A transportable single family dwelling unit which may be towed on its own running gear, which is built on a permanent chassis and is in one or more sections. Permanent mobile home or trailer may be affixed to real estate; shall have minimum of six hundred (600) square feet, have been manufactured in 1978 or later; shall be equipped with a bath tub or shower, toilet, kitchen sink, and a heating system. The mobile home shall be connected to NYSHD or Allegany County Health Department approved water and sewage system.

B. SEASONAL USE MOBILE HOME OR TRAILER. A transportable single family dwelling unit which may be towed on its own running gear and is built on a permanent chassis in one section only. Seasonal use mobile home may be affixed to real estate; it shall have a minimum of three hundred twenty (320) square feet of area; it shall be equipped with a sink and toilet which shall be connected to a NYSDH and/or Allegany County Health Department approved sewage system if an approved water system is connected to the unit. When a mobile home or trailer is used for seasonal occupancy, such occupancy is not to be construed in any way as permanent in the generally accepted use of the word "Permanent".

64. **MOBILE HOME COURT OR PARK.** A plot or parcel of ground containing thereon two or more mobile homes, vehicles or other such structures being used for dwelling or sleeping purposes.

65. **MOBILE HOME SPACE.** A plot of ground within a mobile home park designed for the accommodation of one mobile home.

66. **NON-CONFORMING USE.** Use of a structure or land existing on May 15, 1975 and which does not conform to the regulations of the district or zone in which it is situated.

67. **NUDE MODEL STUDIO.** Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.

68. **NUDITY.** The appearance of a human bare buttocks, anus, genitals, or full female breast.

69. **PERSON.** An individual, proprietorship, partnership, corporation, association, or other legal entity.

70. **PERSONAL SERVICES.** The office, studio, or shop, such as a barber shop, beauty shop, photography shop, etc.

71. **PETS.** Those animals which are domesticated and are kept as a companion or treated with affection, and are generally known as household pets such as dogs, cats, birds, fish, etc.

72. **PLANNING BOARD.** The Planning Board of the Town of Rushford, Allegany County, State of New York.

73. **PONDS.** A containment of fresh water which has been dug out or dammed up.

74. **PRINCIPAL USE.** The main use of land or structure as distinguished from a subordinate use or accessory use.

75. **PRINCIPAL STRUCTURE.** The main structure as distinguished from a subordinate or accessory structure.

76. **PROFESSIONAL ACTIVITIES.** The office or studio of a resident physician, surgeon,

dentist,or other person licensed by the State of New York to practice a healing art, law, architecture, engineering, real estate, or insurance sale, etc.

77. **PUBLIC USE.** Public parks, schools, and administrative, cultural and service buildings, not including public land or buildings devoted solely to the storage and maintenance of equipment and materials.

78. **PUBLIC UTILITY.** Any person, firm, corporation, municipal department duly authorized to furnish under public regulation to the public, electricity, gas, steam, telephone, transportation, water, sewage or solid waste disposal.

79. **QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING.** A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale as an industrial operation and exclusive of the process of grading a lot preparatory to the construction of a building.

80. **RECREATIONAL TRAILERS, CAMPERS, MOTOR HOMES.** A transportable mobile unit which is not more than thirteen and one-half (13 ½) feet high from the ground, eight (8) feet wide and thirty-five (35) feet long including hitch, or fifty-five (55) feet total length of trailer and towing vehicle (for fifth wheel). Must have a current license and registration and be self contained.

81. **RIGHT OF WAY.** A right of passage over private or public land through a designated parcel of that land.

    A. **HIGHWAY RIGHT OF WAY.** The tract of land owned by the municipality on which there is a travelway. The Town and County width is 49 ½'. The state varies.

82. **SANITARY LAND FILL.** A method of disposing of garbage and refuse by spreading, covering and compacting with earth.

83. **SATELLITE DISH**. An antenna used for reception of signals from a satellite.

84. **SEASONAL RESIDENCE.** Summer or winter cabins, cottages, hunting camps, farm labor housing and similar housing designed, intended and/or used for seasonal, non-permanent residential use.

85. **SEMI-NUDE.** A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps and devices.

86. **SEMI-PUBLIC USE.** Churches, parochial schools, colleges, hospitals and other institutions of an educational, religious, charitable or philanthropic nature.

87. **SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its primary purposes, offers for any form of consideration:

    A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
    B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

88. **SEXUALLY-ORIENTED BUSINESS.** An adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

89. **SIGN.** Any advertisement, announcement, direction or communication produced in whole

or part by the construction, erection, affixing or placing of a structure on any land or other structure or produced by painting or posting on or placing any printed, lettered, figured or colored material on any structure or surface, but not including signs placed or erected by a village, town, county or state agency for the purpose of showing street name, directions, regulations, or for other public purpose.

90. **SILO.** An enclosed trench or tower in which green fodder is preserved.
91. **SPECIALIZED ANIMAL RAISING OR CARE.** The use of land and/or buildings for the raising and care of rabbits, dogs, birds, horses, or other domestic animals of the similar nature, which can be considered livestock or pets.
92. **SPECIAL USE.** A use which because of its unique characteristics requires individual consideration in each case pursuant to the conditions of this ordinance by the Zoning Board of Appeals before it may be permitted in the District enumerated in this ordinance.

93. **STAND, ROADSIDE.** A structure for the display and sale of farm and related produce.

94. **STORY.** The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.
95. **STREET OR ROAD.** A public or private way which affords the principal means of access to abutting properties.
96. **STRUCTURAL ALTERATIONS.** Any change other than incidental repairs which would prolong the life of the supporting member of a building or structure, such as bearing walls, columns, beams and girders.
97. **STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.
98. **SUBDIVISION** The division of any parcel of land into two or more lots, plots, sites, or other land portion, for the purpose, whether immediate or future, of transfer of ownership, or building development, and shall include any resubdivision.
99. **SUBSTANTIAL IMPROVEMENT.** Means any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(A) Before the improvement or repair is started, or
(B) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "Substantial Improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either;

(1) Any project for improvement of a structure to comply with existing state of local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or
(2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

100. **SWIMMING POOL.** A manufactured containment of water, inground or above ground, the primary use being to swim in, which contains a filter system and is 36" or more in depth.

101. **TELECOMMUNICATIONS TOWER.** A structure for mounting communications equipment.

102. **USE.** The purpose for which land or building thereon is designed, arranged or intended or for which it is occupied or maintained, let or leased.

103. **VARIANCE.** Relaxation of the terms of the zoning ordinance which is not contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardships.

104. **YARD.** An unoccupied space, open to the sky, on the same lot with a building or structure.

105. **YARD, FRONT.** An open, unoccupied space on the same lot with a building situated between the street right-of- way and a line connecting the parts of the building setting back from and nearest to such street right-of-way line and extending to the sides of the lot.

106. **YARD, REAR.** A yard extending across the full width of the zoning lot and lying between the rear line of the lot and the nearest line of the principal building.

107. **YARD, SIDE.** The part of the yard lying between the nearest line of the principal building and side lot line and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.

108. **ZONING MAP.** The map or maps incorporated into this ordinance as a part thereof, designating zoning districts.

109. **ZONING OFFICER.** (See Code Enforcement Officer).

110. **ZONING PERMIT.** The permit issued by the Code Enforcement Officer authorizing the construction, extension or use of land and/or buildings.

## ARTICLE 4 - ESTABLISHMENT AND DESIGNATION OF DISTRICTS

### 4.1 Establishment of Districts

For the purpose of promoting the public health, safety, morals and general welfare of the Town of Rushford, the Town is hereby divided into the following districts;

R-C Residential/Commercial District
R-2 Rural Residential District
A-1 Agricultural District
F-1 Flood Hazard Area

### 4.2 Zoning Map

Said districts are bounded as shown on the map entitled ZONING MAP OF THE TOWN OF RUSHFORD, adopted May 15, 1975, and certified by the Town Clerk which accompanies, and which with all explanatory matter thereon, is hereby made a part of this ordinance.

### 4.3 Interpretations of Boundaries

Designation of District Boundaries. The district boundary lines are intended generally to follow the center lines of streets, existing lot lines, the mean water level of steams, and other waterways, or Town Boundary Lines, all as shown on the Zoning Map. In the case of unsubdivided property, or in event lot lines are not so indicated, the district boundary lines shall be determined by the use of the scale appearing on the zoning district map or by dimensions.

### 4.4 Districts Defined

A. R-C District Scale USGS 1 inch = 2,000 Feet

All that tract or parcel of land situated in the Town of Rushford, Allegany County, State of New York, being part of lots 28, 29, 36, 37, Range 2, Township 5 of the Holland Land Company's survey of the Rushford Township, Allegany County, State of New York; Beginning at a point in the center of the concrete highway bridge on Hardy's Corners Road over Caneadea Creek located on the south edge of the hamlet of Rushford, Allegany County, New York, and thence east on an east-west line to a point 900 feet + or - thence northeast 3000 feet + or - to the centerline of the intersection of NYS Rte. 243 and Caneadea Road; thence northwest on the center line of NYS Rte. 243 to the point at intersection of NYS Rte.243 and the Indian Creek crossing on said route; thence southwest 2100 feet + or - to a point at intersection of centerline of West Branch Road, the point beginning 1400 feet + or - west of centerline and intersection of West Branch Road and West Centerville Road; thence 3700 feet + or - southeast on a point intersecting the east-west through the center of the concrete highway bridge on Hardy's Corner Road; thence 300 feet + or - east to the point of beginning at the center of the concrete highway bridge on the Hardy's Corner's Road, including all lands inside of the aforesaid area, and as shown on Town of Rushford Zoning Map Exhibit No. 2.

B. R-2 District Scale USGS 1 inch = 2000 Feet

All that tract or parcel of land, situated in the Town of Rushford, Allegany County, State of New York, being part of lots 28, 29, 36, 37, Range 2, Township 5 of the Holland Land Company's Survey of Rushford Township, Allegany County, New York; Beginning at the point of intersection of the Rushford Caneadea Town Line and the Hillcrest Road, (County RD. 49) on the southeast side of Rushford Lake; thence southwest along the centerline of Hillcrest Road (County Rd. 49) 4200 feet + or - to the point of intersection of the NYS Reforestation Area No. 18 northwest property line; thence generally southwest and then north on this NYS Reforestation Area No. 18 property line 2400 feet + or - to a point, thence north 300 feet + or - to the intersection of the centerline of Rush Creek Road, thence southwest 125 feet + or - to the intersection of the centerline at Rush Creek Road and the west side of the great lot line No. 1; thence due north 2000 feet + or - along the great lot line to a point 328 feet + or - north at the centerline of Barber Hill Road; thence due east 500 feet + or - to the point of intersection of the centerline of Hillcrest Road (County Rd. 49) and the line; thence north and west on the centerline of Hillcrest Road (County Rd. 49) to the point of intersection at Hillcrest Road and the old County Road 49, this point being 800 feet + or - southeast of the intersection of Hillcrest Road (County Rd. 49) and NYS Rte. 243; thence northwest along the centerline of the County Road 49 to the point of intersection of centerline of the County Road 49 to the point of intersection of centerline of the old County Road 49 and the centerline at NYS Rte. 243, thence easterly along the centerline of NYS Rte. 243 to the point of intersection of Rte. 243 and the Rushford Caneadea Town Line; thence due south along the Rushford Caneadea Town Line to the point of beginning; including all lands inside this aforesaid area with the following exception which is hereafter described and included in the A-1 District but can be included in this District R-2 if the land use changes from Agricultural to Residential and/or Recreational. The point of beginning at the point of intersection of the centerline of NYS Rte. 243 and the centerline of Balcom Beach Road thence south on the centerline of Balcom Beach Road 1400 feet + or, thence westerly on the centerline of Balcom Beach Road 1000 feet + or -, thence northerly on the centerline of Balcom Beach Road 1000 feet + or - to a point in the centerline of the westerly most creek; hence northerly 600 feet + or - in the centerline of the aforesaid creek to the centerline of NYS Rte. 243; hence east 1100 feet + or - to the point of beginning and commonly called the Barber Farm.

C. A-1 District

All that part of the Town of Rushford excluding the R-C, R-2, and F-1 Districts.

D. F-1 District

## BASIC FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBN), No. H-01-06 dated September 16, 1974, and any revisions thereto, are adopted by reference and declared to be part of this local law. The FHBN is on file at the Rushford Town Hall.

E. Zoning Maps

Exhibit No. 1 Town of Rushford
Exhibit No. 2 R-C District as described.
Exhibit No. 3 R-2 District as described
Exhibit No. 4 Flood Hazard Areas

## ARTICLE 5 - DISTRICT REGULATIONS

5.1 Schedule of Regulations

The restrictions and controls intended to regulate development in each district are set forth in the attached Schedules which are supplemented by other sections of this ordinance.

5.2 District Use Regulations

A. Except as hereinafter otherwise provided, buildings and land in the district in which they are located shall conform to the following:

Only as permitted by this ordinance in the several districts shall:

1. any building be erected;
2. any existing building be moved, altered, added to or enlarged; or
3. any land be used.

B. No building shall be erected, reconstructed or structurally altered to exceed in height the limit hereinafter designated for the district in which such building is located, excepting farm buildings.

C. No building shall be erected, no existing building shall be altered, enlarged or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner unless the yard regulations, the lot regulations and the building regulations de-signed for each district as set out in this ordinance are conformed to.

D. No yard or other open space provided around any building shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

E. An existing building can be moved on the original parcel of land without a permit provided that all regulations of this ordinance are adhered to.

F. To move an existing structure from the original parcel of land to another parcel of land requires a permit.

G. To tear down an existing structure does not require a permit.

H. No land or building shall be used by any combination of persons, whether formally organized or not, to reside or otherwise assemble in order to conduct or conspire to conduct any unlawful activity, including, but not limited to, rituals or practices violating any statute, law, ordinance, or regulation applicable in the Town of Rushford.

5.3 Permit Regulations

SU - Special Use (see note)
Article 5, Schedule 1

AU - Allowed use (Permit not required)
AU*-Allowed Use (Permit required see note)

NA - Not Allowed

| Construction, Use or Condition | A1 | RC | R2 | F1 |
|---|---|---|---|---|
| ACCESSORY USE | AU* | AU* | AU* | AU* |
| ADULT ARCADE | SU | NA | NA | NA |
| ADULT BOOKSTORES | SU | NA | NA | NA |
| ADULT CABARET | SU | NA | NA | NA |
| ADULT MOTEL | SU | NA | NA | NA |
| ADULT MOTION-PICTURE THEATER | SU | NA | NA | NA |
| ADULT THEATER | SU | NA | NA | NA |
| AGRICULTURAL WASTE LAGOON | AU* | NA | NA | NA |
| AGRICULTURAL WASTE STRUCTURE | AU* | NA | NA | NA |
| AGRICULTURAL LAND | AU | SU | SU | AU |
| AIRPORTS | SU | NA | NA | NA |
| ANIMAL HOSPITALS OR CLINICS | SU | SU | SU | NA |
| AUTOMOBILE GRAVEYARDS | SU | NA | NA | NA |
| BED & BREAKFAST | SU | SU | SU | NA |
| BOARDING HOUSE | SU | SU | SU | NA |
| CAMPS | SU | SU | SU | SU |
| CAR WASH | SU | SU | SU | SU |
| CEMETERIES | SU | SU | SU | SU |
| COMMERCIAL SCHOOLS | SU | SU | SU | NA |
| CORN CRIBS | AU | AU* | NA | AU |
| DECKS, PORCHES | AU* | AU* | AU* | AU* |
| DRIVE-IN COMMERCIAL USE | SU | SU | SU | NA |
| DRIVE-IN THEATERS | SU | SU | SU | NA |
| ENTERTAINMENT FACILITIES | SU | SU | SU | NA |
| ESSENTIAL SERVICES | AU | AU | AU | AU |
| **Construction, Use or Condition** | **A1** | **RC** | **R2** | **F1** |

| | | | | |
|---|---|---|---|---|
| ESTABLISHMENT, ADULT | SU | NA | NA | SU |
| FARM | AU | SU | SU | AU |
| FENCES (Electric or barbed wire) | AU | NA | NA | AU* |
| FENCES (Other than electric or barbed wire) | AU | AU* | AU* | AU* |
| FOOD AND GRAIN STORAGE FACILITIES | AU* | AU* | NA | AU |
| FEED BINS | AU | AU* | NA | AU |
| FOOD PROCESSING | SU | SU | SU | NA |
| FUEL OIL AND GASOLINE STORAGE | SU | SU | SU | NA |
| GAS STATIONS | SU | SU | SU | NA |
| GENERAL MANUFACTURING | SU | SU | SU | NA |
| GOLF COURSES | SU | SU | SU | SU |
| GRAIN STORAGE BUILDING | AU* | AU* | NA | AU* |
| HOME OCCUPATION | SU | SU | SU | NA |
| INDOOR THEATERS | SU | SU | SU | NA |
| JUNKYARDS | SU | NA | NA | NA |
| LOCAL RETAIL BUSINESSES | SU | SU | SU | NA |
| LUMBER AND BUILDING MATERIAL SALES | SU | SU | SU | NA |
| MANUFACTURING | SU | SU | NA | NA |
| MEDICAL CENTERS | SU | SU | SU | NA |
| MINING, QUARRYING, SAND/GRAVEL EXTRACTION | SU | SU | SU | SU |
| MOBILE HOMES | AU* | AU* | AU* | NA |
| MOBILE HOME COURTS | SU | SU | SU | NA |
| MORTUARIES | SU | SU | SU | NA |
| MOTELS, HOTELS | SU | SU | SU | NA |
| MULTIPLE DWELLINGS | SU | SU | SU | NA |
| NUDE MODEL STUDIO | SU | NA | NA | NA |
| OIL AND GAS WELLS, TANKS, LINES | SU | SU | SU | SU |
| OFFICES AND BANKS | SU | SU | SU | NA |
| **Construction, Use or Condition** | **A1** | **RC** | **R2** | **F1** |

| | | | | |
|---|---|---|---|---|
| OUTDOOR ADVERTISING | SU | SU | SU | SU |
| PARKING LOTS | SU | SU | SU | SU |
| PARKS & COMMERCIAL RECREATION FACILITIES | SU | SU | SU | SU |
| PONDS | AU* | SU | SU | AU* |
| PERSONAL SERVICES | SU | SU | SU | NA |
| PRIVATE RECREATION | SU | SU | SU | NA |
| PUBLIC RECREATION | SU | SU | SU | SU |
| PUBLIC USES | SU | SU | SU | SU |
| PUBLIC UTILITIES | SU | SU | SU | SU |
| RACE TRACKS | SU | NA | NA | SU |
| RADIO - TELEVISION TOWERS | SU | SU | SU | SU |
| RECREATIONAL VEHICLE CAMP OR PARK | SU | SU | SU | SU |
| RESEARCH AND TESTING FACILITIES | SU | SU | SU | NA |
| REST HOMES, NURSING HOMES, SANITARIUMS | SU | SU | SU | NA |
| RESTAURANTS | SU | SU | SU | NA |
| SALOONS, TAVERNS | SU | SU | SU | NA |
| SANITARY LANDFILLS** | SU | NA | NA | NA |
| SATELLITE DISH | AU | AU | AU | AU |
| SAWMILLS | SU | SU | SU | SU |
| SEASONAL FARM PRODUCE ROADSIDE STANDS | AU* | AU* | AU* | AU* |
| SEASONAL RESIDENCE | AU* | SU | AU* | NA |
| SEMI-PUBLIC USES | SU | SU | SU | NA |
| SILO | AU* | SU | NA | AU* |
| SIGNS | AU* | AU* | AU* | AU* |
| SINGLE FAMILY DWELLINGS | AU* | AU* | AU* | NA |
| SPECIALIZED ANIMAL RAISING AND CARE | AU | SU | SU | AU |
| SWIMMING POOLS | AU* | AU* | AU* | AU* |
| TELECOMMUNICATIONS TOWER | SU | NA | NA | NA |
| TOURIST HOMES | SU | SU | SU | NA |
| TRANSIENT AMUSEMENT ENTERPRISE | SU | SU | SU | SU |

| | | | | |
|---|---|---|---|---|
| TWO FAMILY RESIDENCE | AU* | AU* | AU* | NA |
| WAREHOUSES | SU | SU | SU | SU |
| WATER RELATED USES | SU | SU | SU | SU |
| WHOLESALE BUSINESSES | SU | SU | SU | NA |

Notes on Article 5, Schedule 1

The term Allowed Use in Article 5, Schedule 1, is construed to mean that all items so designated AU are not subject to permit issued by the Code Enforcement Officer on his own authority.

AU* in Article 5, Schedule 1 means that a permit is required and that the Code Enforcement Officer may issue the permit on his own authority.

The term Special Use in Article 5, Schedule 1, indicates that those items designated SU require a permit issued by the Code Enforcement Officer after review and approval by the Zoning Board of Appeals. Procedures are outlined in Article 2 of this Zoning Ordinance.

** See section 9.17 for specific regulations.

## ARTICLE 5 - Schedule 2 - 5.4 District Use Regulations

The lot, yard, height, and area requirements and limitations set forth in the following table entitled District Use Regulations, Schedule 2 is hereby made a part of this ordinance and shall apply in the respective districts as indicated.

| District | Minimum Lot Area ③ | | Minimum Lot Width | Minimum Yard Dimensions ④⑤ | | | | Maximum Height ⑥ | Maximum Percent of Lot Coverage |
|---|---|---|---|---|---|---|---|---|---|
| | per dwelling unit | other | | Front | Each Side Residential | Each Side Non-Residential | Rear | | |
| Agricultural Residential A-1 ① | 2 acres | 2 acres | 200 ft. | 35 ft. | 25 ft. | 50 ft. | 40 ft. | 40 ft. | 25% |
| Residential Commercial R-C ① | 25,000 sq. ft. for single family homes 50,000 sq. ft. for apart-ments | 30,000 sq. ft. | 100 ft. | 25 ft. | 10 ft. | 20 ft. ② | 40ft.② | 40 ft. | 30% |
| Rural Residential R-2 ① | 25,000 sq. ft. for single family homes 50,000 sq. ft. for apart ments | 30,000 sq. ft. | 100 ft. | 25 ft. | 10 ft. | 20 ft. ② | 40 ft. | 40 ft. | 30% |
| Floodway F-1 | Residences Not Permitted | 2 acres | 200 ft. | 35 ft. | N/A | 50 ft. | 40 ft. | 40 ft. | 25 |

① Minimum conforming lot area requirements in the Residential District may be reduced by 25% if either a approved public combined sewage treatment system or an approved public water supply system i provided, and by 50% if both approved systems are provided. If both are provided, yard dimensions ma be decreased by 20%. Non-conforming lots remain unchanged

② Commercial uses shall not be located or conducted within 30 ft. of any lot line of any other lot in Residential area.

③ The Allegany County Board of Health may require a larger minimum.

④ Minimum yard dimensions are the building setback dimension from the property lines or road right-of-way

⑤ Non-conforming lot of record setback shall be 15 ft. from the street or road right-of-way and 5 ft. from sid or rear property lines

⑥ Farm structures are excluded from maximum height regulations. Other structures see Article 6.

## ARTICLE 6 - SUPPLEMENTARY LOT REGULATIONS

6.1 Non-conforming Lots of Record

A single-family structure may be constructed on any lot in the A-1 or R-C or R-2 District if said lot is less than the minimum area required for building lots in the A-1 or R-C or R-2 District in which it is located, providing the following conditions exist or are met;

A. Adjacent lots

An owner of a non-conforming lot must combine it with an adjacent lot or lots, when possible, to create a conforming lot or as large a non-conforming lot as possible. If a principal structure is on each lot, the lots need not be combined. Lots of record which have been combined pursuant to this provision may not be returned to lot of record status by resubdividing.

B. Side or Rear Yards

No structure shall be constructed on a non-conforming lot unless it shall have a minimum front yard of fifteen (15) feet from the right of way, and five (5) feet from sides or rear property lines.

C. Approved Sewage System

Any structure layout on this lot shall be such that the lot will accommodate an approved Allegany County sewage system,

D. Maximum Percentage of Lot Coverage

The total structure area of existing structures, additions, alterations or new structures built on a non-conforming lot of record cannot exceed twenty-five (25) percent of the lot area.

E. Height

F. Surface Drainage

1. Lots shall be laid out and graded to provide positive drainage away from units.

2. Drainage systems shall be adequate to provide for all proper drainage of roofs, yards, paving and streets.
   a. To permit unimpeded flow of natural water-courses.

   b. To insure adequate drainage of all low points along the line of the streets.

   c. To intercept storm water run-off along streets at intervals reasonably related to the extent and grade of the area drained.

3. The design of drainage systems shall control concentration of storm water run-off over adjacent properties.

See Article 5, Schedule 2, Maximum Height

6.2 All lots

A. Drainage

No changes in topography or in any drainage system which will cause drainage encroachment upon adjoining property will be permitted.

B. Fences

Fences and all natural barriers will be no more than eight (8) feet in height. A fence has to be included on owner's (s') property. A fence must be set back from the property line enough so that the fence and the grounds to the property line can be maintained by the fence owner (s). Barbed wire fencing and/or electric wire fencing is/are to be used for the fencing of livestock or protection of crops only. The fence will be built so that it is aesthetically compatible with the district in which it is built. A fence which forms a barrier or enclosure with no means of access for fire or ambulance protection is not allowed. Any fence-like barrier of natural material or growth, such as hedges, shrubs, etc., must be maintained by the owner of the property on which such fence-like barrier is planted. Said barrier will not encroach in any way upon the adjacent property.

C. Lot Width

The minimum lot width of any lot shall be measured along the minimum building setback line as required for the district in which it is located.

D. Corner Lots

At all street or road intersections, no obstructions to vision (other than an existing building, post, column, or tree) exceeding thirty (30) inches in height above the established grade of the street or road at the right-of-way line shall be erected or maintained on any lot within the triangle formed by the right-of-way line of such lot and a line drawn between the points along such right-of-way line fifteen (15) feet distant from their point of intersection. (See Figure 1)

E. Required Area or Space Cannot Be Reduced

The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this ordinance; and, if already less than the minimum required by this ordinance, said area or dimension may be continued but shall not be further reduced.

F. Approved sewage system (see 6.1C)

6.3 Recreational Trailers or Campers in the R-C and R-2 Districts

A. Not more than one recreational trailer or camper used for shelter or living purposes can be parked on a lot for a maximum time of one year reckoned from the time of parking. By the end of that year, a permanent structure or a mobile home must be erected or established in accordance with this ordinance.
B. Not more than one recreational trailer or camper can be stored on a lot with a permanent structure. It may not be used for living purposes.

6.4 Height Regulation

A. General Application

No building or structure shall have a greater number of stories nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located.

B. Permitted Exceptions to Height Regulations

Chimneys, fire towers, gas tanks, steeples, water towers, ornamental towers or spires, communications, radio or television towers, windmills, or necessary mechanical appurtenances, may be erected as to their height in accordance with existing or hereafter adopted ordinances of the Town of Rushford, provided, no tower other than a church spire or towers of a public building shall exceed the height regulations by more than forty (40) percent. No towers shall be used as a place of habitation or for tenant purposes. No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the height limitations, excepting farm buildings.

6.5 Yard Regulations

When the wall of the building is not parallel with the lot line or is broken or otherwise irregular, the yard set back line is measured from the point of the building nearest to the lot line.
The yard set back line as shown in Article 5, Section 2 and Article 6, Section 6.1 is measured from a vertical line up or down from that part of the building which projects closest to the lot line or right-of-way.
Examples: Open porches, balconies, sun decks, roof overhang, steps, sills, cornices, and other ornamental features.

6.6 Maximum Coverage

Land coverage by principal buildings or structures in each district shall not be greater than is permitted in the district where such principal and accessory buildings are located in accordance with the pertinent schedule.

# ARTICLE 7 - MOBILE HOMES AND MOBILE HOME PARKS

7.1 Intent of this Article

It is the intent of this article to regulate mobile homes and to encourage, stabilize, and protect the development of well planned mobile home parks. All mobile homes and mobile home parks commenced henceforth shall be in conformity with the provisions of this ordinance and the provisions of this Article.

## *7.2 Regulation for Mobile Homes to be Used as Permanent Residence Not Located in Mobile Home Parks*

A. Location and Type

**Single Mobile Homes may be located in any district**

B. Health and Sanitary Codes

All single mobile homes shall meet all the requirements of the State of New York and the Town of Rushford Codes and the Allegany County Health Department as though they were single family dwellings.

C. Permits Required

Zoning permits are required of mobile homes as outlined in Article 11. Plans to show water supply and drainage, and a sewage disposal permit from the Allegany County Health Department, shall be submitted to the Rushford Code Enforcement Officer.

D. Foundation and Stabilization

1. A mobile home shall be placed on a stable compacted level gravel base and concrete block foundation. Site must be leveled prior to installation of mobile home.
2. Each mobile home shall have anchors and tie-downs such as cast-in-place concrete "dead-men" and eyelets, screw augers, arrowhead anchors or other devices for securing the stability of the mobile home. All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top or frame ties to ground anchors. Specific requirements shall be:

   a. Over-the-top ties be provided at each of the four corners of the mobile home, with two additional per side at intermediate locations, and mobile homes less than fifty (50) feet long requiring one additional tie per side;
   b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four additional ties per side;
   c. All components of the anchoring system must be capable of carrying a force of forty-eight hundred (4800) pounds;
   d. Any addition to the mobile home must be similarly anchored.

3. Skirting or solid type material screening the space between the mobile home floor and the ground shall be complete within sixty (60) days after the establishment of the mobile home.

## *7.3 Regulations for Seasonal Use Mobile Homes or Trailers not Located in a Park*

A. Location and Type

Location; See Article 5, Schedule 1
Type; See Article 3.2, Definition 51B

B. Health and Sanitary Codes

Health and sanitary codes shall be met as outlines in Article 3.2 - Definition 51B. if an approved water system is not connected to the unit, an Allegany County Health Department approved pit privy is required.

C. Permits Required

**Same as Section 7.2 C**

D. Anchoring

**Same as Section 7.2 D**

7.4 Mobile Home Parks (Permanent residence or seasonal residence)

A. Location

A mobile home park is permitted as indicated in Article 5, Schedule 1- District Use Regulations

B. Filing Application and/or Renewal of Permit for Mobile Home Park

1. Application for Mobile Home Park is filed with the Code Enforcement Officer along with the required fees. Final approval of application will be given by the Town Board after review and recommendations by the Town Planning Board and the Town Zoning Board. Within the first thirty (30) days after filing, the Zoning Board will hold a Public Hearing on the application. Within sixty (60) days after filing, the Zoning Board and the Planning Board will separately review and make recommendations, in writing to the Town Board. The Town Board has thirty (30) days, after receiving recommendations, to review and to permit or reject the application. The Town Board then will direct the Code Enforcement Officer to issue a permit or reject the application.

2. An application for a Mobile Home Park shall include the following:

   a. A Town of Rushford application for building and zoning permits;

   b. A complete park layout including trailer locations, drainage, sewerage and water, green belt, roads and contours to scale;

   c. An Allegany County Health Department recommendations for sewage and water systems, including perc tests and soil boring reports.

C. Space Requirements

1. A Mobile Home Park shall contain a minimum of four (4) adjacent acres;

2. Mobile home spaces shall consist of a minimum of six thousand (6000) square feet for each space. Each space shall be at least sixty (60) feet wide and one hundred (100)feet long, and the space shall be clearly defined. There shall be a minimum clearance of thirty (30) feet between individual mobile homes.

3. No mobile home shall be located closer than sixty (60) to any property line or thirty-five (35) feet from street right-of-way.

D. Access Roads

All mobile homes shall abut upon an access road of not less than thirty (30) feet wide, paved, and/or of gravel, and forty-nine and one-half (49.5) feet right-of-way which shall afford an unobstructed access to a public street or highway. The access road shall be constructed full width to a minimum depth of twelve (12) inches of compacted gravel by mechanical means. Access roads shall be designed with proper drainage ditches and cross culverts. No cul-de-sacs nor dead end roads shall be allowed.

E. Water Supply

An adequate and tested supply of pure water, approved by the Allegany County Health Department, for drinking and domestic purposes shall be supplied to each mobile home space within the park.

F. A combined collection, sewage treatment, and disposal system shall meet the requirements of the New York State Department of Environmental Conservation and the Allegany County Health Departments.

G. Surface Drainage

1. Lots shall be laid out and graded to provide positive drainage away from units.

2. Drainage systems shall be adequate to provide for all proper drainage of roofs, yards, paving and streets.

   a. To permit unimpeded flow of natural water-courses.

   b. To insure adequate drainage of all low points along the line of the streets.

   c. To intercept storm water run-off along streets at intervals reasonably related to the extent and grade of the area drained.

3. The design of drainage systems shall control concentration of storm water run-off over adjacent properties.

H. Storage and Collection of Garbage and Refuse

The storage and collection of garbage and refuse within each mobile home park shall be conducted so as to create no health hazards or air pollution, rodent harborage, insect breeding areas, fire hazards. All garbage shall be stored in fly-tight, rodent proof containers. These containers shall be located no more than one hundred (100) feet from any mobile home lot and shall be collected at least once weekly.

I. Services Buildings

Service Buildings may be provided by the management for offices, repair storage, laundry facilities and indoor recreation areas. No such building shall be closer than fifty (50) feet from any mobile home. Service buildings for public use shall be well lighted at all times of the day and night, shall be well ventilated with screened openings, shall be constructed of such moisture proof materials including painted woodwork as shall permit repeated cleaning and washing and shall be heated. The floors of the service buildings shall be of a water impervious materials.

J. Public Utilities

1. Within each mobile home park all utility lines including those for electricity and telephone service shall be located underground.

2. Each mobile home shall be provided with suitable electrical equipment in accordance with the National Electrical Code and local codes to provide not less than one hundred fifty (150) amperes of power capability. All equipment shall be grounded and weatherproofed.

K. Foundation and Stabilization

See Article 7, Section 7.2 D all parts.

L. Green Belt

The outer boundaries of a mobile home park shall contain a buffer zone. This buffer zone shall be composed of a green strip, not less than twenty (20) feet in width, located along all park boundaries. This buffer may be in a yard adjacent to a street or paved road provided all other provisions of the ordinance are met.

M. Allowable Additions to Mobile Homes

1. An open covered patio or porch

2. A door wind screen

3. A false protective roof

4. No additional enclosed on site constructed living space on a mobile home is allowed.

N. Supplementary Conditions and Safeguards

In approving any mobile home park, the Planning Board and/or Zoning Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made part of the approval, shall be deemed a violation of this ordinance.

O. Renewal of Mobile Home Park Permit

Application for the renewal of any mobile home park permit issued pursuant to this ordinance must be filed with the Code Enforcement Officer on or before the first day of December next preceding the expiration of the permit. The application for renewal shall be on forms provided by the Town. To be eligible for renewal, the park must be in compliance with the requirements and conditions of the original permit. Upon the Code Enforcement Officer's approval of the application for a permit renewal, the Code Enforcement Officer shall issue a renewal permit which shall become effective upon the expiration of the prior permit and continue in force for the term specified therein but in no event longer than a period of two (2)years. Such renewal permit cannot be transferred or assigned. The applicant shall at the time of issuance of any such renewal permit pay to the Code Enforcement Officer the same fee provided in Section 11 covering the original issuance of mobile home parks permits.

P. Transfer of Mobile Home Park Permit

In the event that ownership of a mobile home park is transferred to another, the new owner is required to apply for a new permit. Original documents are on file with the Code Enforcement Officer and they can be used for filing a new permit. Application for new permit must be reviewed by the Planning Board and the Zoning Board within thirty (30) days of application. The Zoning Board will instruct the Code Enforcement Officer to issue the permit.

Q. Accountability

The owner of the mobile home park shall be held responsible for violations of this ordinance by himself and/or individuals in the park. As a condition of the issuance or renewal of any permit required hereunder, the Town Board may require a developer to put appropriate bonds to secure the faithful performance of development plans and duties required hereunder.

## ARTICLE 7A – ADULT USES

### 7A.1 Intent of this Article

It is the purpose of this article to regulate sexually-oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the Town of Rushford and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually-oriented businesses within the Town of Rushford. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment to the Constitution of the United States, or to deny access by distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

### 7A.2 Uses permitted; restrictions

Adult uses may be permitted upon issuance of a special permit by the Rushford Zoning Board of Appeals and shall also be subject to the following regulations:

A. An adult use may not be operated within one thousand (1,000) feet of:

(1) A church, synagogue or regular place of worship
(2) A public or private elementary or secondary school or licensed child day-care center
(3) A boundary of any residence or residential zoning district.
(4) A public park.

B. An adult use may not be operated within one thousand five hundred (1,500 feet of another adult use or on the same lot or parcel of land as another adult use.
C. An adult use may not be operated in the same building, structure or portion thereof containing another adult use.
D. For the purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where an adult use is conducted, to the nearest property line of the premises of a church or public or private elementary school or licensed child day-care center, or the nearest boundary of an affected public park, residential district or residential lot.
E. For the purpose of this section, the distance between any two (2) adult uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.
F. All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by this section shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or show said area or activity. This requirement shall apply to any four (4) square foot display, decoration, sign, window or other opening.

7A.3. Inspection requirements.

A. A person may operate an adult use business only in the Town of Rushford in accordance with the provisions in this section.
B. Prior to the commencement of any adult use business or upon any transfer of ownership or control, the premises must be inspected and found to be in compliance with all laws, ordinances, rules and regulations applicable to the use and occupancy for an adult use business and compliance with this section.
C. All code enforcement officials, including the Town Code Enforcement Officer and Town Fire Marshall, shall complete their certification that the premises is in compliance, or not in compliance, within twenty (20) days of the inspection of the premises of such officials.
D. Any owner and/or operator, employee of the owner and/or operator or agent of the owner/operator shall permit representatives of the Allegany County Sheriff's Department, New York State Police, County or State Health Department, Town Fire Marshall or Town Building Inspector, or other town, county or state departments or agencies that have permitting authority regarding the use of the premises, to inspect the premises of an adult use business for the purpose of ensuring compliance with this

section, at any time it is occupied or open for business.

*7A.4. Violations*

It shall be deemed a violation of this section if the owner and/or operator, an employee of the owner and/or operator, or an agent of the owner/operator has:

A. Violated, or is not in compliance with any section;
B. Refused to allow an inspection of the adult use business premises as authorized in this section.
C. Allowed gambling to occur on the adult use business premises;
D. Allowed the possession, use or sale of a controlled substances to occur on the premises;
E. Allowed prostitution to occur on the premises; and/or
F. Allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur on the premises.

7A.5. Enforcement; penalties for offenses.

A. Any person, firm, corporation or entity found to be violating any provisions of this section shall be served with a written notice by the Building Inspector or his designee, stating the nature of the violation and providing for immediate correction thereof. Such notice shall be served by one (1) of the following methods:

(1) By personal service.
(2) By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Rushford.
(3) By posting of such notice in a conspicuous place upon the premises affected and a copy thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Rushford.

B. Any persons, firm, corporation or entity who shall violate any portion of this section shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed five hundred ($500) dollars for each violation. The continuation of a violation of the provisions of this section shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.
C. The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof where such a violation has been committed or does exist shall be guilty of such an offense.

D. Any person, firm corporation or entity violating any of the provisions of this chapter shall become liable to the town for any expense or loss or damage occasioned the Town by reason of such violation.
E. In addition to the foregoing, the Town of Rushford Building Inspector may suspend

the right to conduct any adult use established in the Town of Rushford for a period not to exceed thirty (30) days upon a determination that any of the violations contained in 7A. hereof have occurred.

## ARTICLE 8 - NON-CONFORMING USE AND BUILDINGS

### 8.1 Discontinuance of Use

A. Whenever any part of a building, structure or land occupied by a non-conforming use is changed to or replaced by a use conforming to the provisions of this ordinance, such premises shall not thereafter be used or occupied by a non-conforming use.
B. Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of twelve consecutive months or whenever there is a clear intent on the part of the owner to abandon a non-conforming use such use shall not, after being discontinued or abandoned, be re-established, and the use of premises thereafter shall be in conformity with the regulations of the district.
C. Where no enclosed building is involved, voluntary discontinuance of non-conforming use for a period of twelve moths shall constitute abandonment, and shall not thereafter be used in a non-conforming manner.

### 8.2 Change of Use

A non-conforming use or structure may be changed to another non-conforming use of an equal or more restrictive classification with approval of Code Enforcement Officer provided that no structural change, enlargement, extension, or reconstruction is made.

### 8.3 Repairs and Alterations

A. A residential non-conforming building or structure maybe altered in any way to improve interior livability provided that no structural alteration shall be made which would increase the non-conformity with regard to the number of housing units or the bulk of the building or structure.
B. A non-conforming building or structure for other than residential purposes may not be reconstructed or structurally altered during its life to an extent that such alterations exceed in aggregate cost twenty-five (25) percent of the full valuation of the building or structure exclusive of the value of the land, unless said building or structure is changed to conforming building or structure.
C. Normal maintenance repairs and incidental alteration of a building or structure use shall be permitted provided that said repairs and alterations do not extend the volume or area of space occupied by the non-conforming building or structure.

### 8.4 Restoration

Any non-conforming building or structure, which as a result of fire, explosion, or other casualty, is damaged and made unsafe and unusable, or has less than fifty (50) percent of its then existing floor area made unsafe and/or unusable, said non-conforming building or structure may be restored, reconstructed, or used as before, provided that the bulk, height and area requirements shall not be in excess of that which existed prior to said damage. Such restoration must be completed within two (2) years of such occurrence or the use of such

buildings, structure or land as a legal non-conforming use shall be terminated.

8.5 Replacement of Buildings/Structures

An existing non-conforming building or structure may be replaced by another building/structure provided that the new building/structure does not exceed the bulk, height, area requirements of the former building/structure. A permit is required.

8.6 Razed Buildings/Structures

Whenever a building/structure has been completely razed or destroyed, the building/structure can be rebuilt upon the existing foundations provided that the bulk, height, and area requirements shall not be in excess of that which existed prior to said razing or destruction.

8.7 Unsafe Structures

Any non-conforming building or structure or portion thereof declared unsafe by a proper authority must be restored to a proper condition, or razed. Action must be taken within thirty (30) days after written notification. The owner must advise the proper authority, upon receipt of notification, of action to be taken. For proper Authority, see Article 9.4.

## ARTICLE 9 - SUPPLEMENTAL REGULATIONS

### 9.1 Automobile Graveyards and Junkyards

Where permitted in Article 5, Schedule 1 of this ordinance as a special use with the Board of Zoning Appeals approval, all automobile graveyards and junk yards shall conform to the following requirements:

A. A minimum of five (5) acres is required to establish a junk yard or automobile graveyard.

B. The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.

C. The permittee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by unauthorized personal.

D. The permittee must erect and maintain in good condition a solid eight foot fence of wood or of other acceptable material (tires are unacceptable) adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the permittee, and if such area abuts a residential area or public street or highway, such fence shall be at least fifty (50) feet from the boundary line or right-of-way thereof. All materials dealt in by the permittee shall be kept within such fence at all times.

E. When the area is not supervised by the permittee or his employees, the fence shall be locked at a secure gate in a secure manner.

F. The area of the permittee's activity or business shall not be used as a dump area or as a place for the burning and disposal of junk or trash.

G. The Town Board or any of its representatives shall be granted access to the area of the activity or business of the permittee at all reasonable hours to inspect the same for compliance here-with.

H. Open fires are prohibited. Requests for special burning permits may be made to the New York State Department of Environmental Conservation.

I. The autos, parts, and materials dealt in by the permittee shall be disassembled or dismantled by means other than by burning. They shall be piled less than seven feet high and arranged in neat rows so as to permit easy, clear passage through the area.

J. There shall be maintained at each such place of activity or business for which a permit issued at least one (1) fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.

K. Permittee must produce a N.Y.S DOT permit, when applicable, with his application.

9.2 Minimum Building Size

A building permit is not required for a building/structure of one hundred forty-four (144) square feet or less and one story in height; however, all other requirements of this ordinance apply.

9.3 Temporary Buildings

A Temporary buildings or trailers, other than buildings or trailers for living purposes, used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of such work. Permits for temporary, non-residential buildings shall be used for a one year period and must be renewed for continued use.

B. Temporary buildings or trailers for living purposes, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of such work. Permits for temporary residential buildings are subject to the approval of the Zoning Board and shall be used for a one year period.

## *9.4 Unsafe Buildings / Structures*

A. Unsafe because of Fire Hazards

Any building/structure can be deemed unsafe by the Code Enforcement Officer of the Town of Rushford in accordance with the N.Y.S. Uniform Fire Code.

B. Unsafe because of Health Hazards

Any building/structure can be deemed unsafe by the Allegany County Health Department in accordance with the Allegany County Health Laws.

C. Unsafe because of Structural Deficiencies

A written complaint must be filed with the Code Enforcement Officer who will follow up within ten days with an inspection of the premises under complaint. The Code Enforcement Officer will notify in writing the owner of the premises of the complaint. The Code Enforcement Officer will file a report of the inspection with the Zoning Board within thirty (30) days after said inspection.

The Zoning Board, after receiving the Code Enforcement Officer's report, will rule on the safety of the premises under complaint. The Zoning Board will send a written notification of its ruling to the owner of the premises and to the complainant. The owner must take action as directed in Section 8.7 of this ordinance.

D. Structural Deficiencies

Structural deficiencies listed below are to guide the Code Enforcement Officer in his inspection:

1. Major settlement or damage to foundations;
2. Rotting of major structural members;
3. Rotting and/or sagging of roof (s) or overhang (s);
4. Major settlement of a structure or part thereof;
5. Major separation of major parts of a structure;
6. Major structural damage to chimney, tower, antenna, silo.

## 9.5 Extraction of Stone, Gravel, Sand, Top Soil - Commercial Use

Where permitted in Article 5, Section 1 of this ordinance, all mining, quarrying, removal of top soil, sand and gravel extraction shall conform to the following requirements:

A. An application for a permit must be filed with the Zoning Board of Appeals and must include the following:

1. A location map which shows land to be quarried or mined, and the location of the adjacent properties, structures, roads, and natural features;

2. A complete plan of operation, submitted to the Zoning Board of Appeals and to the Planning Board, including final grading and seeding of excavation site, and the proposed final topography map indicated by contour lines of no greater interval than five feet;

3. A map showing actual location and depths of water wells within 2,000 feet of the excavation.

B. The permittee must personally manage or be responsible for the management of the activity or business for which the permit is granted.

C. No extraction shall take place within three hundred (300) feet of any property line or right-of-way.

D. No extraction shall be performed or proceed to such depth as to diminish, pollute or impede the water available to any such person drawing water from a private well located within two thousand (2,000) feet of such extraction.

E. During any such extraction for sand, gravel or soil, the permittee shall be responsible for protection of excavation by the use of fences or natural barriers once the excavation has proceeded to a depth of six (6) feet or more below the original grade.

F. Following completion of such extraction operation for sand and gravel as herein referred to and within thirty (30) days thereafter, it shall be the obligation of the permittee to do the final grading, drainage, seeding in accordance with the original plan for restoration.

G. Upon approval of the plan, the Zoning Board of Appeals shall issue a use permit for a period of two (2) years. Application for renewal of the permit shall be made to the Board. The Board shall extend the permit from year to year if it finds that restoration of the landscape is proceeding at a pace commensurate with the earth removal operations.

H. Removal of gravel, sand or top soil from streams, creeks or lake shore will conform to requirements of the Department of Environmental Conservation. In case the DEC regulation does not pertain, the extraction will conform to the above article.

## *9.6 Extraction of Stone, Gravel, Sand, Top Soil - Private Use*

A private owner may move sand, gravel and soil from one location on his property to another location on his property without a permit or plan of operation as long as the removal is for his personal use only. The following requirements shall pertain.

A. In the A-1 District, no extraction shall be permitted within one hundred (100) feet of a property line or right-of-way.

B. In the R-C District and/or the R-2 District, no extraction shall be permitted starting five

(5) feet from the property line proceeding on a one on one slope.

C. No extraction shall be permitted be performed to such a depth as to diminish, pollute, or impede the water available to any such person drawing water from a private well located within two thousand (2000) feet of such extraction.

9.7 Sanitation

A. All garbage, junk, rubbish, or recyclables shall be disposed of only at an authorized waste disposal facility by the individual or a commercial garbage collection service.

B. Any new or modified facilities for the treatment, storage, or disposal of sewage, including excreta, sludge, bath, sink and laundry wastes or trade wastes, shall be provided and installed in accordance with the rules, regulations and standards of New York State and Allegany County Departments of Health. Careful consideration shall be given to the location and construction of private water supplies to assure adequate protection of such supplies. the number of the Allegany County Health Department Permit to Construct for sewage disposal must be submitted before a certificate of occupancy is issued.

9.8 Signs

Signs may be erected in compliance with the following provisions:

A. In the R-C District and/or the R-2 District, the following holds:

1. Real estate signs not exceeding eight (8) square feet in area and advertising the sale, rental or lease of the premises on which the sign is located shall be permitted on any property;
2. Announcement or professional signs for legitimate home occupations and professional activities and name of resident signs not exceeding more than six (6) square feet in area shall be permitted in any district where such activities are permitted;
3. Bulletin boards and signs for a church, school, community or other public or semipublic institutional building shall be permitted provided that the area of such sign does not exceed thirty (30) square feet and such signs are set back a minimum of fifteen (15) feet from the established right-of -way;
4. Temporary signs not exceeding thirty-five (35) square feet, announcing the erection of a building, the architect, builder, etc., may be erected for the period of sixty (60) days plus the construction period; provided, however, the same shall be removed from the premises upon the completion of the building;
5. Temporary signs not exceeding thirty-five (35) square feet, announcing an event of community interest, meeting with the approval of the Town Board, may be erected provided the same shall be removed from the premises upon the completion of the event;
6. Commercial establishments shall be permitted to erect one flat or wall sign for the purpose of permanent advertising. The area of such sign or any single business enterprise shall be limited according to the frontage width of the building occupied by such enterprise, or the frontage width of the lot. In computing the maximum size, each business enterprise may have a permanent sign of an area equivalent to one and one-half (1-1/2) square feet of sign area for each lineal foot of frontage width occupied but in no case shall exceed a maximum area of one hundred (100) square

feet. A freestanding pole sign not over thirty (30) feet in height and not in excess of forty (40) square feet in sign area may also be permitted each business providing that;

a. No part of such sign shall project into or over any public right-of-way;
b. The pole support of such sign shall not be less than forty (40) feet from any lot in any residential district;

B. In the A-1 and F-1 Districts, any free standing sign thirty-five (35) square feet or under must be fifteen (15) feet from the right-of-way. Any sign larger than thirty-five (35) square feet must be thirty-five (35) feet from the right-of-way. There is no limitation of size on flat or wall signs mounted completely on the building.

## 9.9 Gasoline stations / Automobile Repair Shops

A. Location of Building Set Back

A gasoline station/automobile repair shop must be set back a minimum of fifty (50) feet from right-of-way and property lines.

B. Exits and Entrances

No gasoline station/automobile repair shop shall have an entrance or exit for vehicles within ten (10) feet of the adjacent property lines. Such access shall not be closer to any intersection than thirty (30) feet. Such exits and entrances are limited to two (2) accesses each fifty (50) feet maximum in width. The remainder of the frontage must be curbed.

C. Location of Oil Drainage Pits and Hydraulic Lifts

All oil drainage pits and hydraulic lifts shall be located within an enclosed structure.

D. Fuel Pumps

1. Gasoline service stations shall have their fuel pumps set back at least twenty-five (25) feet from the right-of-way.
2. Fuel pumps shall be set back at least fifty (50) feet from property lines.

E. Storage of all saleable liquid fuels shall be underground with the exception of liquid propane gas. These storage tanks will be located a minimum of twenty-five (25) feet from right-of-way, and fifty (50) feet from the property line, with the exception of liquid propane gas, which must be fifteen (15) feet from the right-of-way and property lines.

## 9.10 Bulk Fuel Storage

A. Private Use Storage

1. In the A-1 District, storage tanks will be located fifteen (15) feet from right-of-way, and fifty (50) feet from property lines.
2. In the R-C and R-2 Districts, the tanks must be located fifteen (15) feet from right-of-way and fifteen (15) feet from property lines.

B. Commercial Use Storage

1. All such storage facilities must have a spill plan in accordance with the New York State Department of Environmental Protection Agency rules, and regulations.
2. A minimum lot size of four (4) acres is required.
3. A minimum set back of one hundred fifty (150) feet from all property lines and right-of-way is required.

C. Storage of Crude Oils - Temporary

1. Tankage must be at least fifty (50) feet from all right-of-ways and property lines.
2. Tankage must be in properly dammed containment areas.
3. A driveway or parking area must be provided for loading transporting vehicles.
4. All such storage facilities and wells must have a spill plan in accordance with NYS, DEC and US EPA rules and regulations.

## 9.11 More Than One Principal Structure

More than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this ordinance shall be met for each structure as if each were constructed on an individual lot. Each structure must have its own sewage system approved by the Allegany County Health Department.

## 9.12 Exceptions to Height Regulations

The height limitations contained in Article 5, Section 2 Schedule of District Regulations, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, silos, grain elevators, radio or television towers, windmills, or any appurtenances usually required to be placed above occupancy.
Any lease of property for a telecommunications tower must include 10 feet more than the height of the tower.

## 9.13 Performance Requirements

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, or noxious element or condition. A Zoning permit shall not be issued therefore unless the following performance requirements are observed to the satisfaction of and approved in writing by the Zoning Board of Appeals, and the Planning Board.

A. Air Pollution. No pollution of air by flyash, dust, vapors, or other substances shall be permitted which is harmful to health, animals, vegetation, or other property, or which can cause excessive soiling.

B. Water Pollution. No pollution of water by chemicals or other substances shall be permitted which is unhealthy to animal or plant life as determined by the Allegany County Health Department.

C. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire fighting and suppression equipment and by such others safety devices as are normally used in the handling of such materials.

D. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity or electrical disturbance at any point where it may adversely affect health, animals, vegetation or other property.

E. Erosion. No person will contribute to erosion, through either wind or water, which will adversely affect neighboring properties.

## 9.14 Regulation for Floodway (F-1 District)

See Article 5, Schedules 1 and 2 for allowed uses.

A. The Code Enforcement Officer shall, if any or all of the following are applicable;

1. Review all applications for permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard;
2. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
3. Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
4. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity in not diminished.

B. Provisions for Flood Hazard Reduction

In all areas of special flood hazards the following standards are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
2. All mobile homes and any additions thereto shall be anchored to resist flotation, collapse, or lateral movement by providing an anchoring system designed to withstand a wind force of 90 miles per hour.

3. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
4. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
5. New and replacement sanitary sewage shall be designed to minimize or eliminate infiltration of flood water into the systems and discharge from the systems into flood waters.
6. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
7. All subdivision proposals shall be consistent with the need to minimize flood damage;
8. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
9. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage;
10. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots of five (5) acres, whichever is less.

Specific Standards

11. New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the base floor elevation; or, together with attendant utility and sanitary facilities, shall;

    a. be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water; and
    b. have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    c. be certified by a registered professional engineer that the standards of this subsection are satisfied. Such certifications shall be provided to the Code Enforcement Officer.

12. Any fill proposed to be deposited in the Floodway must be shown to have some beneficial purpose as demonstrated by a plan submitted by the owner. Such fill shall be protected against erosion by rip-rap, vegetation cover, or bulkheading.
13. Storage of materials that are not contrary to the provisions of this ordinance are permitted, providing they are firmly anchored to prevent flotation or they are readily removable from the area.
14. Any structure or material which may impede, retard or change the direction of the flow of water or that which will catch or collect debris carried by such water, or that is placed where the stream either at natural or flood stage could carry the matter downstream to the damage or detriment of property adjacent to the flood plain shall not be permitted.

C. Flood Control Facilities

With the construction of flood control facilities approved by the Town Board and the Planning Board, permits may be granted in the F-1 District for the same uses that are permitted in the non-floodway district nearest to it on the zoning map.

### 9.15 Agricultural Animal Waste Facilities

A. The facility must be at least one hundred (100) feet from the right-of-way or property lines.
B. The facility must be water tight so that there will be no seepage of waste to surface or sub-surface water.
C. An open facility accessible from the ground must be fenced.

### 9.16 Satellite Dishes

All satellite dishes must conform to the setback regulations and other sections of this ordinance. A permit is not required.

### 9.17 Sanitary Landfills

A. Definitions

I. Refuse. Shall mean all putrescible and nonputrescible solid wastes including garbage, rubbish, ashes, incinerator residue, dead animals, demolition and construction debris, automobile bodies, offal and solid commercial and industrial waste.

II. Study. Study shall mean an engineering study for the development of any landfill or solid waste disposal facility. In addition, all engineering studies shall include such other reports and recommendations from environmentally concerned governmental agencies at the county, state, and federal level.

B. Procedure

I. No landfill or solid waste disposal facility of any type or nature whatsoever shall be established or created within the Town of Rushford until all the procedures set forth herein have been followed by the applicant and such facility has been approved by the Rushford Town Board and a permit for such has been issued by the Board.

II. No landfill or solid waste facility within the geographical boundaries of the Town of Rushford shall be permitted to place any refuse within such landfill or facility unless such refuse has originated within the geographical boundaries of the Town of Rushford.

C. Application Procedure

I. Any person, firm, corporation, or governmental entity intending to open, operate

or alter operation or increase a landfill or solid waste disposal facility shall be subject to the following procedures:

1. Submission to the Rushford Planning Board and the Town Board of Rushford of a detailed comprehensive plan, including but not limited to the following information:

   a. An instrument survey or accurate land plot of the area under consideration including aerial photographs.
   b. A topographical study of the area to be considered.
   c. An engineering study locating all water sources, streams and tributaries, both surface and underground, within 2500 feet of the boundaries of the proposed site. Such plan shall include the anticipated effect on the quality or flow of any such watercourses

2. The maximum decibel level of the equipment or machines to be used at the site including the average daily decibel level to be anticipated during the operation of such machines.
3. An air quality study of the air in the vicinity of the site and the anticipated or probable increase in the pollutants in the air as a result of the operation of the site.
4. The number of hours per day and the number of days per week such site shall be operational.
5. The number, type, description and gross tonnage weight of any vehicles that shall service the site.
6. A detailed plan for the control and or elimination of any increase in vermin as a result of the operation of the site.
7. The number of residential dwellings within 2500 feet of the boundaries of the site and the number of persons residing within that area.
8. Methods, if any, proposed by the applicant for recycling refuse received at the site.
9. Such further and other information, studies and plans as may be deemed necessary by the Rushford Town Board or the Rushford Planning Board in completing their studies.

II. Within sixty (60) days of the submission of the completed application to it, the Rushford Planning Board shall hold a public hearing at a time and place convenient to the public. Notice of such meeting shall be published at least once each week for four (4) consecutive weeks prior to the hearing. In addition, written notices of such application shall be forwarded to all landowners and residents within 2500 feet of the proposed boundaries of the site. Upon completion of the public hearing, the Rushford Planning Board may in its discretion order a further public hearing if necessary or submit within sixty (60) days its written detailed recommendations concerning such site to the Rushford Town Board.

III. The Rushford Town Board, upon receipt of the written recommendations from the Rushford Planning Board, may in its discretion hold such further public hearings as the board deems necessary. However, within sixty (60) days of the receipt of the recommendations of the Planning Board, the Town Board shall disapprove the site or issue a permit for the operation of the site under such terms and conditions as the Town Board deems necessary to protect the environment and residents of the Town of

Rushford. No such permit shall be issued by the Town Board for a period exceeding one year.

C. All applications for the creation, increase or change in operation of any landfill or solid waste facility in the Town of Rushford shall be accompanied by a nonrefundable fee in the sum of Five Thousand dollars ($5,000.00) to cover the anticipated costs of studies and public hearings required pursuant to this law.

### 9.18 Used Car Lots, Mobile Home and Trailer Sales

1. If any person has more than one mobile home/trailer/motorhome for sale on their property, it will be considered a business and the proper procedure to set-up such a business must be allowed.
2. If a person purchases a new mobile home, they can sell the old one on their property. However, if the mobile home is not sold within one year, it must be removed from the property or penalized. Under no circumstances can there be succeeding sales of home on this property without permission of the code enforcement officer.
3. A permit must be acquired for 30 days, the permit must be renewed.

## ARTICLE 10 - RECREATIONAL VEHICLE CAMP OR PARK

10.1 Location

A recreational vehicle camp or park is permitted as indicated in Article 5, Schedule 1 District Use Regulations.

10.2 Filing application for a permit or for a renewal of a permit, for Camp or Park. See Section 7.4 B of this ordinance.

10.3 Space Requirements

A. A recreational vehicle camp or park shall contain a minimum of two acres and a maximum of fourteen camp sites per acre.
B. There will be a green belt of no less than thirty-five (35) feet between the camp site and property lines and/or right-of-way. The plantings of the green belt will be of such nature that a natural screen will result.

10.4 Access Roads

All camp sites shall abut upon an access road of not less than twenty (20) feet in width. The access road shall afford an unobstructed access to a public street or highway. No cul-de-sacs nor dead-end roads shall be allowed.

10.5 Water Supply

An adequate and tested supply of pure water, approved by the Allegany County Health Department, shall be supplied for public use within the park.

10.6 Sewage System

A. Non-chemically treated sewage

See Section 7.4 of this ordinance.

B. Chemically treated sewage

Such sewage must be properly stored in holding tanks until such time for disposal in an approved manner by the New York State Department of Environmental Conservation. No chemical wastes shall be dumped into a non-chemically treated sewage system.

10.7 Surface Drainage

See Section 7.4 G of this ordinance.

10.8 Waste Disposal

Solid waste shall be removed and disposed of in a proper manner.

10.9 Toilet/Lavatory Facilities

Toilet and lavatory facilities will be provided according to New York State Department of Environmental Conservation Law.

## ARTICLE 11 - ADMINISTRATION AND ENFORCEMENT

### 11.1 General Procedure

A. All persons desiring to undertake any new construction, structural alteration, or changes in the use of a building or lot shall apply to the Code Enforcement Officer for a permit by filling out the appropriate application form and by submitting the required fee. The Code Enforcement Officer will then either issue or refuse the Permit or refer the application to the Zoning Board of Appeals. After the permit has been received by the applicant, he may proceed to undertake the action permitted in the permit, and upon completion of such action, shall apply to the Code Enforcement Officer for a Certificate of Occupancy. If the Code Enforcement Officer finds that the action of the applicant has been taken in accordance with the permit, He will then issue a Certificate of Occupancy allowing the premises to be occupied except as authorized in Section 11.2 C of this ordinance.

B. If the person applying for a permit does not own the property, he must produce an affidavit signed by the property owner approving the application.

### 11.2 Permit Types

Under the terms of this ordinance, the following classes of permits may be issued.

A. Allowed Use. A Building Permit for an Allowed Use may be issued by the Code Enforcement Officer on his own authority. Allowed uses are listed in Article 5, Schedule 1 of this ordinance.

B. Special Use. A permit for a Special Use may be issued by the Code Enforcement Officer upon the order of the Zoning Board of Appeals following a public hearing. Special Uses are listed in Article 5, Schedule 1 of this ordinance.

C. Permit After an Appeal or a Request for a Variance. A permit for a variance of this ordinance may be issued by the Code Enforcement Officer upon the order of the Zoning Board, after a public hearing held by the Zoning Board for the purpose of deciding upon the request following procedure set forth in 11.3 of this ordinance.

### 11.3 Procedure for Issuing a Permit

A. Building Permit

1. Applicant must obtain from the Code Enforcement Officer an application form and must complete all sections of the form. If a layout proves to be more complicated than the form can accommodate, the applicant must offer a lay-out on separate sheets.
2. Application must be given to the Code Enforcement Officer with the required fee.
3. If the application data is within the parameters of this ordinance, the Code Enforcement Officer will issue the Building Permit.

B. Special Use Permit

1. Same as 11.3, A 1 of this ordinance.
2. Same as 11.3, A 2 of this ordinance.
3. The Code Enforcement Officer will present the completed application to Zoning Board at their next regularly scheduled meeting.

   a. All action required on the application must be completed within sixty-two (62) days after receipt of the application by the Zoning Board.
   b. The Zoning Board must conduct a public hearing within sixty (60) days after receipt of the application. The Zoning Board, after due consideration of recommendations, must act upon the request and a majority of the Board will approve or disapprove, or approve with conditions and modifications, the request. The Zoning Board must direct in writing the Code Enforcement Officer to approve or disapprove the application at its next meeting.

C. Permit After an Appeal or a Request for a Variance

Same as Section 11.6 B of this ordinance.

11.4 Code Enforcement Officer

This ordinance shall be enforced by the Code Enforcement Officer who shall be appointed by the Town Board. No permit or Certificate of Occupancy shall be issued by the Code Enforcement Officer except where all the required provisions of this ordinance have been complied with. Violations of this ordinance shall be punishable as prescribed by local law.

**A. Permits**

1. General. No building or structure shall be erected, added to, or structurally altered, until a permit has been issued by the Code Enforcement Officer. Except upon a written order of the Zoning Board, no such permit or Certificate of Occupancy shall be issued for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this ordinance.
2. Information Necessary for Application. There shall be submitted with all applications for permits, two copies of a layout or plot plan, drawn to scale, showing the actual dimensions of the lot to built upon. The exact size and location on the lot of the building, and accessory buildings to be erected, elevation of area in question and such other information as may be necessary to determine and provide for the enforcement of this ordinance, must be provided.
3. Public Record. One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer together with such permit to the applicant. The second copy with a copy of each application with accompanying plan shall become a public record after a permit is issued or denied.
4. Issuance of Permits. It shall be the duty of the Code Enforcement Officer issue a permit, provided that he is satisfied, and that all other reviews and actions, if any called for in this ordinance have been complied with and all necessary approvals secured thereof. All

permits shall be issued with a placard. The placard shall be posted fully visible from the road, on the premises affected, and protected from the weather whenever construction work is being performed thereon. No owner, contractor workman or other person shall perform any building operations of any kind unless a permit covering such operation has been displayed as required by this ordinance, nor shall they perform building operations of any kind after notification of the revocation of said permit.

5. Expiration of Permit. A permit shall expire after one year if the applicant fails to implement his application as filed with the Code Enforcement Officer.
6. Denial of Permits. When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirement of this ordinance, he shall refuse to issue a permit and applicant may appeal to the Zoning Board for a reversal of the Code Enforcement Officer's decision.
7. Revocation of Permits. If it shall appear, at any time, to the Code Enforcement Officer that the application or accompanying plot is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the application filed with him under existing laws or ordinances, he may forthwith revoke the permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the said Code Enforcement Officer. After the permit has been revoked, the Code Enforcement Officer, at his discretion, before issuing the new permit, may require the applicant to file an indemnity bond in favor of the Town of Rushford with sufficient surety conditioned for compliance with this ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not comply.

## B. Certificate of Occupancy

1. General. No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a Certificate of Occupancy shall have been issued by the Code Enforcement Officer, stating that the buildings or proposed use thereof complies with the provisions of this ordinance.
2. Application for Certificate of Occupancy. An application for a Certificate of Occupancy is required whether or not a permit is required. If a permit is required, a Certificate of Occupancy will be applied for coincidentally. The Certificate of Occupancy shall be issued within ten (10) days after the erection, alteration, or use shall have been approved as complying with the provisions of this ordinance.
3. Temporary Certificate of Occupancy. If a structure, or use, is in compliance with the provisions of this ordinance, and if the projected construction or use is not completed, a temporary Certificate of Occupancy may be issued for that completed part which is in compliance with this ordinance. The temporary Certificate of Occupancy must be renewed annually until a permanent Certificate of Occupancy can be issued according to the provisions of this ordinance.
4. Record. The Code Enforcement Officer shall maintain a record of all Certificates of Occupancy and copies shall be furnished upon request to any person having a proprietary interest in the building affected.

C. Special Use Permits. The Zoning Board may issue a Special Use Permit for any of the special uses listed in Article 5 of this ordinance, provided such special use complies with the requirements enumerated elsewhere herein. Application for such special use permits shall be made according to Section 11,3 of this ordinance.

General Standards

1. A Special Use Permit shall be granted only when the proposed use is of such character, size and location that in general it will be in harmony with the orderly development of the district in which the property is situated and will not be detrimental to the orderly development of adjacent districts.
2. A permit for a special use in a residential district shall only be granted when it is clearly obvious that the special use will not impair the use, enjoyment and value of adjacent residential properties, and that any vehicular traffic generated therewith will not be hazardous or otherwise detrimental to the prevailing residential character of the neighborhood.
3. A permit for a special use in the R-C district shall only be granted when it is clearly obvious that such use will be harmonious with the district and will not create undue pedestrian or vehicular traffic hazards or any display of signs, noise, fumes, or lights that will hinder the normal development of the district or impair the use, enjoyment and value of adjacent land or buildings.

4. Upon finding that the general standards and special standards set forth herein have been fully met, the Zoning Board may issue the Special Use Permit and in so doing may impose any conditions it may deem necessary to accomplish the reasonable application of the standards. Furthermore, it may deny any application which in its judgment is not in accordance with the general or special standards. The Zoning Board may require as a condition of the issuance of any Special Use Permit, that it shall be periodically renewed, or the Zoning Board may issue a temporary Special Use Permit subject to adequate guarantees that the use covered will be terminated at the end of the period specified. An extension of the temporary permit may be granted by the Zoning Board, provided that any such renewal or extension shall be subject to the same procedure as specified herein for the original issuance of the Special Use Permit involved and shall be in conformity with the general and special standards.

D. Variances. The Zoning Board may issue a variance for any use of structure or area in the Town provided such variance complies with the standards set forth in this section and with the special requirements enumerated elsewhere herein. Application for variances shall be made to the Zoning Board through the Code Enforcement Officer and shall be accompanied by all material needed to verify claim in accordance with Section 11.3 of this ordinance.

General Standards. Each case must be determined on its own merits. Among the criteria for determining whether practical difficulties and unnecessary hardships exist are:

1. The property owner can secure no reasonable return from, or make no reasonable use of his property because of the provisions of this ordinance.
2. Hardship results from the application of the ordinance to some property.
3. Hardship is not the result of one's own actions.
4. Hardship is suffered merely by one property directly and not by others.
5. The hardship is peculiar only to the property of the applicant.
6. That there are special circumstances or conditions, fully described in the findings of the Zoning Board, applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of such land or buildings.
7. That, for reasons fully set forth in the findings of the Zoning Board, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Board is the minimum variance that will accomplish this purpose.
8. That the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
9. In granting any variance, the Board shall prescribe any conditions that it deems to be necessary or desirable.

E. Referral to Planning Board. The Zoning Board shall refer to the Planning Board

such matters as are required by this ordinance and any other pertinent matters for review and recommendations. The Planning Board shall submit a written report on its recommendations to the Zoning Board. Upon failure to submit such report, the Planning Board shall be deemed to have approved the application for appeal. Refer to Section 11.3 of this ordinance.

F. Procedure. The Zoning Board shall act in strict accordance with the procedure specified by law and by this ordinance. All appeals and applications made to the Zoning Board shall be in writing, on forms prescribed by the Zoning Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted as the case may be. Refer to Section 11.3 of this ordinance. Every decision of the Zoning Board shall be by resolution which shall contain a full record of the findings of the Zoning Board in the particular case. Further, every decision of the Zoning Board shall be in writing and shall include the reasoning for the decision, and shall be filed in the Zoning Board's office and in the office of the Town Clerk, and shall be of public record.

G. Votes Necessary for a Decision. The concurring vote of three of the members of the Zoning Board shall be necessary to reverse any order, requirements, decision or determination of the Code Enforcement Officer, or to decide in favor of the appellant any matter upon which it is required to pass under the terms of this ordinance or to the effect any variation of this ordinance.

## 11.5 Planning Board

### A. Review Applications and Appeals

1. Referral from the Board. The Zoning Board shall refer to the Planning Board all applications for special uses, and any other applications or appeals, which in their opinion, require review by the Planning Board.
2. Criteria for Review. The Planning Board shall review such applications in accordance with the applicable criteria.

3. Report to the Zoning Board. The Planning Board may approve, disapprove or approve subject to conditions, or modifications and shall report in writing its finding to the Zoning Board within thirty (30) days prescribed in Section 11.3 of this ordinance. The report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

B. The Planning Board shall review referrals on Subdivision Development from the Town Board in accordance with criteria established by the Planning Board.

11.6 Method for Appeals

A. Procedure for Appellant.

1. An appeal to the Zoning Board from any ruling by the Code Enforcement Officer may be taken by any person aggrieved. Such appeal shall be taken to the Zoning Board by filing with the secretary thereof, a notice of appeal specifying the grounds thereof.
2. All applications for appeals made to the Zoning Board shall be in writing on forms supplied by the Code Enforcement Officer. Every application for appeal shall refer to the specific provision of this ordinance, and shall exactly set forth the interpretation that is claimed, the plans for a special use or the details of the variance that is applied for, in addition to the following information;

   a. The name and address of the appellant.
   b. The name and address of the owner of the district lot to be affected by such proposed change or appeal.
   c. The brief description and location of the district lot to be affected by such proposed change or appeal.
   d. A statement of the present zoning classification of the district lot in question, the improvements thereon and the present use thereof.
   e. A reasonably accurate description of the present improvements and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a plot plan of the real property to be affected, indicating the location and the size of the lot and size of improvements thereon and proposed to be erected thereon.

B. Procedure for Code Enforcement Officer

1. The notice of appeal in any case where a permit has been granted or denied by the Code Enforcement Officer shall be filed within sixty (60) days with the Zoning Board after notice of such action granting or denying the permit has been mailed to the applicant. The Code Enforcement Officer shall forthwith transmit to the Zoning Board all papers constituting the record upon which the action appealed from was taken, or in lieu thereof, certified copies of said papers.
2. It shall be appropriate for the Code Enforcement Officer to recommend to the Zoning Board a modification or reversal of his action in cases where he believes substantial justice requires the same, but where he has not himself sufficient authority to grant the relief sought.

C. Procedure for the Zoning Board of Appeals.

1. The Zoning Board shall decide each appeal within sixty (60) days after a final

hearing. At the hearing any party may appear in person or be represented by an agent or attorney. The Zoning Board's decision, in writing, shall be immediately filed in its office and in the office of the Town Clerk, and be a public record. In the exercise of its functions upon such appeals or upon exceptions, the Zoning Board may in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from or may make such order, requirement, decision or determination in accordance with the provisions hereof.

2. The Zoning Board shall fix a reasonable time for a public hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official paper of a notice of such hearing at least five (5) days prior to the date thereof.

a. When Appealing Action of the Code Enforcement Officer.

In case of an appeal alleging error or misinterpretation in any order or other action by the Code Enforcement Officer, the following persons shall be notified in writing: The appellant and the person or persons, if any, who are affected by the order, requirement, regulation or determination.

b. When Appealing for Variance or Special Use.

In case of an appeal for a variance or in case an application for a special exception use, as provided for in this ordinance, the following persons shall be notified in writing: All owners of property within two hundred (200) feet of the nearest line of the property for which the variance or special exception use is sought, and to such other property owners as the chairman of the Zoning Board may direct.

c. Adjournment of the Hearing.

Upon the day of the hearing of any application or appeal, the Zoning Board may adjourn the hearing for a reasonable period for the purpose of causing such further notice as it deems proper to be served upon such other property owners as it decides may be interested in the application or appeal.

d. Required Interval for Hearings on Applications and Appeals after Denial.

Whenever the Zoning Board, after hearing all the evidence presented upon an application or appeal, under the provisions of this ordinance, denies the same, the Zoning Board shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, his successor, or assign for a period of one (1) year. If the Zoning Board shall find and determine from the information supplied by the request for a rehearing, that changed conditions have occurred relating to the promotion of the public health, safety. convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified a rehearing will be allowed. Such rehearing would be allowable only upon a motion initiated by a member of the Zoning Board and adopted by the unanimous vote of the members present, but not less than a majority of all members of the Zoning Board of Appeals.

e. Expiration of Appeal Decisions.

Unless otherwise specified by the Zoning Board of Appeals a decision on any appeal or request for a variance shall expire if the applicant fails to obtain any necessary permit, or comply with the conditions of said authorized permit within six (6) months from the date of authorization thereof.

f. Stay of Proceedings.

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Code Enforcement Officer certifies for the Zoning Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, they would, in his opinion, cause imminent peril to life or property. In this case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board or by the Supreme Court on application, on notice to the Code Enforcement Officer and on due cause shown.

g. Appeal from Decision of Zoning Board.

All decisions of the Zoning Board of Appeals are subject to court review in accordance with applicable Laws of the State of New York.

11.7 Permit Fees

A fee, in accordance with the schedule established by the Town Board shall be chargeable and shall accompany each application for a permit. Such fee shall be paid into the General

Fund of the Town if the application is approved, or returned to the applicant if the application is denied.

# ARTICLE 13 - REFERRAL

## 13.1 Mandatory Referral

In accordance with the laws of New York State, all proposed zoning regulations, and all special permits, exceptions, variances, or amendments thereto, which would change the district classification or the regulations applying to real property lying within a distance of five hundred (500) feet from the boundary of any city, village or town, or from the boundary of any county or county or state park, or other recreation area, or from the right-of-way of any state parkway, thruway, expressway, or other controlled access highway, or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from boundary of any county or state owned land on which a public building or institution is situated shall be referred to the Allegany County Planning board for review and comment prior to their adoption by the appropriate legislative authority.

## *ARTICLE 14 - SEPARABILITY*

14.1 Separability

If any part of a provision of this ordinance or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this ordinance or the application thereof to other persons or circumstances and the Town Board hereby declares that it would have enacted this ordinance or the remainder thereof had the invalidity of such provision or application thereof been apparent.

APPENDIX A - Town of Rushford - Local Law No. 1 of the year 1986

A local law entitled "A Local Law for Enforcement of Zoning Ordinance"

Be it enacted by the Town Board of the Town of Rushford as follows:

1. A local law for the protection of the health, safety and general welfare of the residents and owners of property of the Town of Rushford by providing for the enforcement of the existing Zoning Ordinance of that Town by the setting forth of the power to fine and/or imprison violators of the existing Zoning Ordinance.

2. This local law is enacted in accordance with Article 16, Section 268 of the Town Law of the State of New York, and where this local law shall conflict with said "Article 16", this local law is hereby automatically amended, revised, altered, or repealed in conjunction with the aforementioned "Article 16", as it shall be amended from time to time.

3. The terms used herein shall be the same as the terms defined in the Zoning Ordinance of the Town of Rushford and shall be amended and revised as said Zoning Ordinance Definitions shall be amended and revised from time to time. Where the terms used herein conflict with any statute of the State of New York, such statute shall control and govern. Further terms shall be defined as follows:

   "Zoning Ordinance" shall mean the ordinance of the Town of Rushford established for the regulation of construction.

   "Remedy" shall mean any action the Town Board shall have against any violator of this local law.

   "Article 16" shall mean Article 16, Section 268 of the Town Law of the State of New York.

4. General Provisions for Enforcement

   a. Any person or corporation who shall violate any of the provisions of the Town of Rushford Zoning Ordinance or fail to comply herewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved under such Zoning Ordinance, shall be guilty of a violation of such ordinance which shall be punishable by a fine not exceeding Two hundred fifty ($250.00) dollars a day and/or imprisonment for a period not exceeding six (6) months or both.

   b. Each week's continued violation, as above described, shall be deemed and shall constitute a separate additional violation of the Zoning Ordinance of the Town of Rushford.

   c. The owner or owners of any building or premises or part thereof, or any person in possession thereof, where anything in violation of such ordinance shall occur, be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction thereof, shall be fined and/or imprisoned as herein provided.

5. The Town Board shall appoint such zoning officer as is appointed under the Zoning Ordinance to persue the remedies brought hereby and any further or other remedies as statute may provide or