

VILLAGE
OF
RUSHVILLE

RUSHVILLE, N.Y

LOCAL LAW # 2 – 2011

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF RUSHVILLE, NEW YORK, FOR THE PURPOSE OF PROVIDING A ZONING LAW FOR SAID VILLAGE, AS FOLLOWS:

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ARTICLE I

GENERAL PURPOSE AND INTENT

- 1.0 General Purpose and Intent is the following:
- 1.1 The Village Board of Rushville, Ontario/Yates County, New York, acting under the authority of the Village Law of the State of New York, hereby adopts and enacts this law to be known and may be cited as "**LOCAL LAW #2 of 2011, ZONING LAW OF THE VILLAGE OF RUSHVILLE.**"
- 1.2 The Village Board enacts this Law for the purpose of promoting the public health, and safety of the Village of Rushville, and in furtherance of the following related and specific purposes:
- a. To lessen congestion in the streets; to secure safety from various dangers; to prevent overcrowding of land; to conserve value of structures and land; to provide adequate water, streets, roads, parks; to regulate density of population, location and use of land and structures; to establish certain districts.
 - b. To accomplish such purposes: to appoint a Zoning Board of Appeals, administrative officers and provide for the administration and enforcement of this Law under the appropriate State and Local Laws that it may enact from time to time.
- 1.3 For the purpose of this Law unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Law. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "structure" shall include "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.
- 1.4 Whenever the word "ordinance" shall be used in the text, the same shall be interpreted to mean "law", or "local law" and all such words or expressions shall be, for purposes of construing this said local law, synonymous with each other.

ARTICLE II

ADMINISTRATIVE AGENCIES

2.0 Administrative Agencies Defined

CODE ENFORCEMENT OFFICER (CEO) - The official designated by the Village Board of the Village of Rushville to enforce the provision of the Local Law, the New York State Uniform Fire Prevention, Building Code in the Village and Watershed Regulation.

COUNTY PLANNING BOARD - The Planning Board of the County of Ontario/Yates.

DEPARTMENT OF HEALTH - The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Village.

HEALTH OFFICER - The person appointed by the Village Board for a term of four years authorized to act on any situation detrimental to the health and welfare of the public.

SUPERINTENDENT OF PUBLIC WORKS - The person appointed by the Village Board to administer the operation of Village water, sewer and highway departments and any other duties as may be assigned from time to time by said board.

VILLAGE BOARD OF TRUSTEES (VBT)- The governing body for the Village of Rushville of which each is an elected official serving a set term.

VILLAGE ENGINEER - The engineer or the engineering firm retained by the Village Board in accordance with the provisions of the New York State General Municipal Law.

VILLAGE PLANNING BOARD (VPB) - Officials appointed by the Village Board to make recommendations to the VBT to amend the Village Zoning laws, to handle site plan review, subdivision regulations and future planning the Village.

WATERSHED INSPECTOR - The official designated by the Village Board to enforce the Village of Rushville Watershed Regulations.

ZONING BOARD OF APPEALS (ZBA) - Officials appointed by the Village Board to hear and decide any aggrieved person appealing the Village Zoning Law.

ARTICLE III

DEFINITIONS

3.0 Explanatory Notes

- a. All words used in the present tense include the future tense.
- b. All words in the plural number include the singular number and all words in the singular number include the plural number, except as to the number of permitted structures, unless the natural construction of the wording indicates otherwise.
- c. The word "person" includes an individual, association, partnership or corporation.
- d. Unless otherwise specified, all distances shall be measured horizontally along the ground.
- e. The word "premises" includes a lot and all buildings or structures thereon.
- f. To "erect", "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one location to another.
- g. The word "use" refers to any purpose for which a lot is arranged, intended or designed to be used, occupied, maintained, made available or offered for use and to any purpose for which a building or structure or part thereof is arranged, intended or designed to be used, occupied, maintained, made available or offered for use, or erected, reconstructed, altered, enlarged, moved or rebuilt with the intention or design of using the same.
- h. The word "used" refers to the actual fact that a lot is being occupied or maintained for a particular use.
- i. "Shall" is mandatory and not discretionary; "may" is discretionary and not mandatory.

3.1 Definitions

- 1. **ACCESSORY USE:** A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the principal use of the lot.
- 2. **ACCESSORY STRUCTURE:** All accessory structures attached or detached shall meet the same front setback requirements as the principle structure and shall be not closer than six (6) feet to the side or rear lot lines.

3. **ALTERATION:** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.
4. **APARTMENT HOUSE:** Any structure housing more than two (2) dwelling units.
5. **APPLIANCE:** Includes any stove, washing machine, dryer, freezer, refrigerator, or other household device or equipment abandoned, junked, discarded, wholly or partially dismantled or no longer intended or in condition for ordinary use for the purpose for which it was designed originally.
6. **ATTIC:** Not containing habitable space, a recreation room, toilet room or similar non-habitable space intended for human occupancy.
7. **AREA, BUILDING:** The total of areas taken on a horizontal plane at the main grade level of the principal building, exclusive of all accessory buildings and exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior face of the walls.
8. **AREA VARIANCE:** The authorization by the ZBA for use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
9. **AUTOMOBILE SERVICE STATIONS, GASOLINE STATIONS:** A building or place of business where gasoline, oil, and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicle trade at retail, and or where minor repair service is rendered.
10. **BASEMENT:** That space of a building that is partly below grade level which has more than half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.
11. **BED & BREAKFAST:** An owner occupied residence, resulting from the conversion of a one family dwelling, used for providing overnight accommodations and a morning meal to not more than 10 transient lodgers, and containing not more than five bedrooms for such lodgers.
12. **BILLBOARD:** An advertising sign related to a business located off premises.
13. **BUFFER AREA:** A landscaped area intended to separate and obstruct the view of the adjacent properties from one another, also to be used a sound and light barrier.
14. **BUILDING:** A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, or property.
15. **BUILDING HEIGHT:** The vertical distance measured from the mean level of the ground surrounding the building to the highest ridge line, but not including chimneys, spires, towers, tanks, and similar projections.

16. **BUILDING LINE:** The line within a lot drawn parallel to a lot line establishing the minimum distance between that lot line and any portion of a building or structure which may be erected.
17. **BUILDING, PRINCIPAL:** A structure in which the principal use of the site on which it is situated is conducted.
18. **CAR WASH -** A structure or building designed for the washing, waxing, simonizing, or similar treatment of automotive vehicles as its principal function. A "FILLING STATION" having portable washing equipment shall not be deemed to be a car wash where such is an accessory service to the principal service of the FILLING STATION.
19. **CELLAR:** The space of a building that is partly or entirely below grade, which has more than half of its height measured from floor to ceiling, below the average established curb levels or finished grade of the ground adjoining the building.
20. **CERTIFICATE OF COMPLIANCE:** No building or structure hereafter constructed, erected or altered shall be occupied or used in whole or in part for any use whatsoever, and not change of use of any building or structure or part thereof, or of any land, shall hereafter be made, until a Certificate of Zoning Compliance has been issued by the CEO, certifying that the building or structure or any use or part thereof complies with the provisions of this zoning law.
21. **CERTIFICATE OF OCCUPANCY:** No land is to be used or occupied, and no building or structure which has been erected or altered is to be used or changed in use, in whole or in part, until a Certificate of Occupancy has been issued by the CEO stating that the proposed use and occupancy of such land, building or structure complies with the provision of this local law and the New York State Building Codes.
22. **CHURCH:** Where worship is conducted.
23. **CODE ENFORCEMENT OFFICER (CEO):** The official designated by the Village Board of the Village of Rushville to enforce the provision of the Local Law, the New York State Uniform Fire Prevention, Building Code in the Village and Watershed Regulation.
24. **COMMUNITY SERVICE PROPERTY:** Any tract of land or building or buildings or any part of any buildings used for community activities whether used for commercial purposes or not, the control of which is vested in a municipality, a local board, or agent, including but not limited to properties owned by or Village of Rushville, schools, cemeteries, and churches.
25. **COVERAGE:** That percentage of the plot or land area covered by the building area.
26. **CRITICAL ENVIRONMENTAL AREA:** A specific geographic area designated by a state or local agency, having exceptional or unique characteristics that make the area environmentally important and based on the criteria set forth in 6 NYCRR 617.4(h) of the State Environmental Conservation Law as may be amended from time to time.

27. **DAY CARE CENTER:** A facility duly permitted and licensed by New York State.
28. **DENSITY:** Number of dwelling units permitted per gross acre of land, exclusive of lands lying within the boundary of any public highway.
29. **DOG KENNEL:** Any land or structure where any number of dogs are kept for the purpose of sale and/or for the boarding, care, or breeding for which a fee is charged or paid.
30. **DRAINAGE:** The gravitational movement of water or other liquids by surface runoff or subsurface flow.
31. **DRIVEWAY:** A vehicular passageway having at least one end thereof connected to a public thoroughfare, and providing ingress to and/or egress from lot.
32. **DWELLING:** Any building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons.
33. **DWELLING UNIT:** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
34. **EROSION:** The wearing away of the land surface by action of wind, water, gravity or other natural forces.
35. **ESSENTIAL SERVICES:** The erection, construction, alteration or maintenance of underground gas or water transmission or distribution systems, including mains, drains, sewers, pipes or electrical transmission systems, wires and cables above or below ground. Fire alarm boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities, cable TV service, Village or other governmental agencies for the public health, safety or general welfare.
36. **EXCAVATION:** Any activity which removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.
37. **FARM:** Any parcel which is used for agricultural production, or customary farming activities. It includes necessary farm structures and the storage of equipment used.
38. **FARM ANIMALS:** Include cows, pigs, goats, chickens, ducks, geese, sheep, mules, donkeys, burros, horses and oxen.
39. **FENCE:** A fence is any type of a barrier or divider, constructed or planted, that will separate properties from one another, or bounding an area of land for limited access, or for privacy, security reasons, ornamentation or screening such an area from view.
40. **FILLING:** Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds and watercourses.
41. **FILLING STATION:** A building or lot or part thereof supplying and selling

gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks. A filling station may include accessory facilities for rendering service for motor vehicles, such as lubricating. It does not do minor repairs.

42. **FLEA MARKET:** The sale of goods or services by one or more vendors on a site and primarily out-of-doors but from within stalls, booths, or other specified sales locations. The term as defined excludes yard sales and garage sales at a private residence.
43. **FLOOD PLAIN:** (1) The area, usually lowlands, adjoining the channel of a river, stream or watercourse which has been or may be covered by flood water during a regional flood or a one-in-one-hundred year flood. (2) The area below the one in one hundred year flood line as established by the Conservation Authority or other designated authority. (3) Flood Plain or flood prone area means any land area susceptible to being inundated by water from any source.
44. **GARAGE/YARD SALE:** The personal sale of seller's possessions on the property upon which the seller dwells.
45. **GARBAGE:** Any refuse from animal and vegetable matter, waste food or parts thereof, refuse from kitchen, market, store or house, floor sweepings, table waste or animal or vegetable matter, meats, fish, bones, fat and all of fat and organic waste substance or food substances capable of decay, but not including waste from slaughterhouses, rendering plants or sanitary disposal systems.
46. **GRADING:** The alteration of the surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.
47. **GUEST:** Any person who is paying a fee for lodging.
48. **HEAVY EQUIPMENT SALES AND RENTAL:** A building or part of a building or structure in which heavy machinery and equipment are offered or kept for sale, rent, lease or hire under agreement for compensation. Also may have an outside display only with approval from the Planning Board.
49. **HOME OCCUPATION:** A use conducted entirely within the dwelling unit and carried on only by the owners thereof. Conditions: 1. The home occupation shall meet all requirements for habitable space and shall not exceed 15 per cent of the floor area of the primary dwelling. 2.No more than one person not residing in the dwelling unit may be employed in the home occupation. 3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation. 4. The home occupation shall not involve any operation considered to be hazardous.
50. **HOTEL -** A building containing either sleeping or dwelling units, or a combination of both, occupied or equipped to be occupied as a temporary abode for tourists or transients, and also containing a general kitchen and dining or other public rooms.
51. **INDUSTRIAL PARK:** A planned, coordinated development of a tract of land with

two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

52. **JUNK YARD:** An area of land, with or without buildings, used for storage outside of a completely enclosed building, of used and discarded materials, including but not limited to waste paper, rags, appliances, parts thereof, with or without the dismantling, processing, salvage, sales or other use or disposition of the same. The deposit or storage of more than one unregistered vehicle, one or more appliances, or the major parts of two or more such vehicles shall also be deemed to make the lot a "junk yard".
53. **LIGHT INDUSTRIAL:** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.
54. **LITTER:** Garbage, refuse and rubbish as herein defined and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
55. **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 the principal use and uses accessory or incidental to the operation thereof, together with such open spaces as required by this Law, and having frontage on a public street.
56. **LOT LINE, FRONT:** The line separating the front of the lot from the street. When a lot or building site is bounded by a public street and one or more alleys or private street easements or private streets, the front line shall be the nearest right-of-way line of the public street.
57. **LOT LINE, REAR:** The lot line not intersecting a front lot line that is most distant from and most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.
58. **LOT LINE, SIDE:** Any boundary of a lot that is not a front or rear lot line. On a corner lot, a side lot line may be a street lot line.
59. **LOT, NON-CONFORMING:** Any district lot which does not possess the minimum width, depth, frontage, or area dimensions specified for the district in which said lot is located.
60. **MANUFACTURED HOUSING:** A transportable single dwelling structure, built on a permanent steel chassis, which may be towed on its own running gear, and which may be temporarily or permanently affixed to real estate, used for non-transient residential purposes.
61. **MANUFACTURED HOUSING PARK:** A parcel of land which has been planned and improved for the placement of two (2) or more manufactured homes for nontransient use. The term shall include "manufactured home park" or other area planned and/or improved for two (2) or more manufactured homes.
62. **MOTEL:** A building or group of detached or connected buildings designed or

used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

63. **MOTOR VEHICLE** - Every vehicle which is propelled by any power other than muscular power, except electrically driven invalid chairs being operated or driven by an invalid. Motor vehicles shall include but not be limited to automobiles, trucks, boats, all terrain vehicles, snowmobiles, etc.
64. **MULCHING:** The application of a layer of plant residue or other material for the purpose of effectively controlling erosion.
65. **MULTIPLE DWELLINGS:** One or a group of dwelling structures housing three or more households, each in a separate dwelling unit.
66. **NON-CONFORMING USE:** A building or structure or use of land which does not comply with the regulations for the district in which it is located.
67. **NURSERY SCHOOL** - A place providing or designed to provide daytime care or instruction for three (3) or more children from two (2) to five (5) years of age away from their home for up to four (4) hours per day.
68. **PARKING, PUBLIC:** An open area of land, other than a street, used for the parking of vehicles and available to the public, or as an accommodation to employees, clients or customers with or without a fee being charged, or for the storage of delivery vehicles, but shall not include any area wherein vehicles for sale or repair are kept or stored.
69. **PARKING, RESIDENTIAL:** An area exclusive of driveways, or aisles, for the temporary parking or storage of motor vehicles, and which has adequate access to permit ingress or egress of a motor vehicle to and from a street by means of driveways, aisles or maneuvering areas.
70. **PARKING SPACE:** A space exclusive of driveway, ramps, columns, to park one vehicle.
71. **PLANNED UNIT DEVELOPMENT:** (PUD) Design and development of a parcel of land encompassing more than one contiguous lot.
72. **REFUSE AND RUBBISH:** Plastics, combustible trash (that has not been packaged or is not part of a business operation), including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding. Also included in noncombustible trash, including but not limited to tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures, bottles and street rubbish, street sweepings, dirt, ashes, dead animals, junked vehicles, solid market and industrial wastes, cardboard, leaves, crockery and similar materials.
73. **RESTAURANT:** An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms, and outdoor cafes.
74. **RESTAURANT, DRIVE-IN:** An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

75. **RIGHT-OF-WAY:** A strip of land occupied or intended to be occupied by a street, crosswalk, electric transmission line, water main, storm sewer main, shade trees, or other special use.
76. **ROOF:** The exterior surface and its supporting structures on the top of a building.
77. **SEASONAL TRADE:** Any temporary and legal occupation or commercial endeavor which spans no more than ninety (90) consecutive days in a 12 month period.
78. **SEDIMENT:** Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited, or has been removed from its site of origin by erosion.
79. **SERVICE STATION:** Premises or the portion thereof used or intended to be used for the servicing and repairing of motor vehicles and for the sale of fuel, oils, and accessories for motor vehicles.
80. **SETBACKS:** (1) the horizontal distance from the center line of the street right-of-way, measured at right angles to such center line, to the nearest part of any building or structure on the lot. (2) With reference to a road: the distance between the center line of a street allowance and the nearest building line and with reference to a waterbody, the distance between the normal spring high water mark line and the nearest building line. (3) The horizontal distance measured at right angles to the boundary of the parcel, lot or block of land, between the main wall of the building and the main boundary.
81. **SIGN:** A sign is any device to inform or attract the attention of persons not on the premises on which the device is located.
82. **SIGN, FREE-STANDING:** Any sign not attached or part of any building but separate and permanently affixed by any other means in or upon the ground. Included are pole signs, pylon signs, and masonry wall-type signs.
83. **SIGN, OFF-PREMISES:** An advertising sign related to a business located off premises.
84. **SIGN, PORTABLE:** a sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, a structure, or another sign.
85. **SIGN, PROJECTING PARALLEL:** A sign that is wholly or partly dependent upon a building for support and which projects more than twelve (12) inches from the plane of such outside wall.
86. **SIGN, PROJECTING PERPENDICULAR:** A sign which is attached to the building wall or structure which is at right angles to the face of such wall or structure.
87. **SIGN, TEMPORARY:** A sign intended for the use for only a limited period of time.
88. **SIGN, WALL:** A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall, and not extending more than twelve (12) inches from the face of such wall.
89. **SINGLE FAMILY CONVERSION:** An existing one family dwelling converted to a

two family dwelling.

90. **SITE PLAN:** A scale drawing showing the relationship between the lot lines and their uses, buildings or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor areas, densities, septic tank tile fields, utility lines and currents, or a special or particular use.
91. **SITE PREPARATION:** The activities of stripping, excavating, filling and grading, no matter what the purpose of these activities.
92. **SOIL:** All unconsolidated mineral or nonliving organic material of whatever origin which overlies bedrock.
93. **SOIL EROSION:** {i} The wearing away of the land surface by rain or irrigated water, wind, ice, or other natural or anthropogenic agents that abrade, detach and remove geological parent materials or soil from one point on the earth's surface and deposit it elsewhere, including such processes as gravitational creep and so-called tillage erosion; {ii} the detachment and movement of soil or rock by water, wind, ice, or gravity.
94. **SPECIAL USE:** A use which because of its unique characteristics requires individual consideration in each case by the Planning Board, before it may be permitted in the district enumerated in this ordinance.
95. **STREET LINE:** The dividing line between the street, road or right-of-way and the lot, where the street line is not readily determinable, or has not been established, this line shall be made from the center of the existing traveled portion of the pavement or way for the purpose of this Law. A three rod right-of-way shall be used for computing the width of the street unless a different width has been established.
96. **STRIPPING:** Any activity which removes or significantly disturbs trees, brush, grass, or any other kind of vegetation.
97. **STRUCTURE:** Excluding driveways and paved walkways, anything that is erected, built or constructed of parts joined together with a fixed location on the ground, or attached to something having a fixed location in or on the ground and shall include buildings, walls or any sign, but does not include fences which do not exceed six feet.
98. **SWIMMING POOL:** Any structure intended for swimming or recreational bathing capable of containing water over 24 inches deep. This includes in - ground, aboveground and on-ground swimming pools, hot tubs and spas.
99. **TOPSOIL:** The natural surface layer of soil, unusually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soils.
100. **TOWNHOUSE:** A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.
101. **USE:** The specific purpose, for which land or a building or structure is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use
102. **USE VARIANCE:** The authorization by the ZBA for the use of land in a manner

or for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

103. **VEHICLE:** A motor vehicle, trailer, traction engine, farm tractor, road building machine and any vehicle drawn, propelled or driven by any kind of power including muscular power, but does not include the cars of electric or steam railways running only on rails.
104. **WAREHOUSE:** A building used primarily for the storage of goods and materials.
105. **WATERCOURSE:** Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainage-way, gully, ravine, or wash in which water flows in a definite direction of course, either continuously or intermittently, and which has a definite channel, bed and banks, and any area adjacent thereto subject to inundation by reason of overflow, flood, or storm water.
106. **YARD:** Any open space, which lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward.
107. **YARD, FRONT:** An open space, which lies between the front building line of the principal building or group of buildings and the front lot line, unoccupied and unobstructed from the ground upward.
108. **YARD, REAR:** An open space extending the full width of the lot between the rear building line of a principal building and the rear lot line, unoccupied and unobstructed from the ground upward.
109. **YARD, SIDE:** An open space extending from the front yard to the rear yard between a principal building and the nearest side lot line, unoccupied and unobstructed from the ground upward.

ARTICLE IV

ESTABLISHMENT OF USE DISTRICTS

4.0 USE DISTRICTS: The following USE DISTRICTS are hereby established:

R-1 Residential
C-1 Commercial
C-2 Commercial
M-D Multiple Dwelling
MHP Manufactured Home Park
CSP Community Service Property

4.1 ZONING MAP:

All aforesaid districts are bounded as shown on a map entitled "Village of Rushville Zoning" prepared by the Ontario/Yates County Planning Board on the sixth day of August, 2010, which accompanies and which, with all explanatory matter thereon, is hereby made part of this Law.

4.2 INTERPRETATION OF DISTRICT BOUNDARIES:

Where uncertainty exists with respect to the boundaries of any of the aforesaid Use Districts, (as shown on the Zoning Map) and are indicated as following along village boundaries, such lines shall be construed to be district boundaries.

4.3 DETERMINATION OF LOCATIONS OF BOUNDARIES:

In case of uncertainty as to the true location of a District Boundary in a particular instance, the individual may request that the Zoning Board of Appeals render its determination with respect thereto.

ARTICLE V

DISTRICT REGULATIONS

5.0 GENERAL REGULATIONS FOR PRESERVATION OF NATURAL FEATURES:

Except as hereinafter otherwise provided

A. Applicability of Regulations

No building shall hereafter be erected and no existing building shall be moved, structurally altered, rebuilt, added to or enlarged, nor shall any land be used for any purpose other than those included among the uses listed as permitted uses in each zone district of the Local Law and meeting the requirements set forth herein. Open space contiguous to any building shall not be encroached upon or reduced in any manner, except in conformity to the area and bulk requirements, off-street parking requirements, and all other regulations required by the Local Law for the zone district in which such building or space is located. In the event such unlawful encroachment or reduction, such building or use shall be deemed to be in violation of the Law, the Certificate of Occupancy or Certificate of Compliance, as appropriate, shall become null and void upon conviction.

B. Preservation of Natural Features

1. No structure shall be built within fifty (50) feet of the bed of a stream carrying water on an average of six (6) months of the year, except for:
 - a. Public bridges, public water works and other municipal public utility facilities.
 - b. Such private bridges, fords, drainage conduits, embankments and similar structures as are necessary to permit access to a lot or portion thereof or as are incidental to a lawful use of a lot, provided that such structure will not have a material adverse effect on the stream, nor alter the flow of water therein, nor substantially increase the likelihood of flood or overflow in the area.
2. No person shall strip, excavate or otherwise remove topsoil for use other than on the premises from which taken, except in connection with the approved construction or alteration of: a building, swimming pool; or, other use or structure on such premises pursuant to the provision of this Local Law.
3. No movement of earth or fill shall be permitted at any time in any district which adversely affects conditions on any other property.
4. Whenever natural features such as trees, brooks, drainage channels and views interfere with the proposed use of property, the retention of the maximum amount of such features consistent with the intended use of the property shall be encouraged.

5.0 C. Regulations Applicable to All Zones

1. NOT PERMITTED IN ANY DISTRICT: Junk yards, gravel pits, dog kennels and farm animals including but not limited to the following: horses, goats, cows, chickens, sheep, alpacas and all other farm animals.
2. Except as specifically provided herein, no lot shall have erected upon it more than one (1) principal building or be allowed more than one (1) principal use. No yard or other open space provided about any building for the purpose of complying with the provisions of this Local Law shall be considered to provide a yard or open space for any other building.
3. No site preparation or construction shall be commenced until final subdivision approval has been granted by the Planning Board and the subdivision map has been filed in the Ontario/Yates County Clerk's Office and site plan approval has been granted by the Planning Board and all conditions of said approval have been met. Upon application the Planning Board may, in special circumstances, grant approval for site preparation in advance of final approval. Said application shall be supported by good and sufficient reasons for starting in advance of final approval and must contain adequate surety for the performance of the work.
4. Accessory or storage building including, but not limited to, a garage for the parking of passenger automobiles of residents on the premises, garden house, tool house, play house, housing for domestic animals incidental to the residential use of the premises, subject to the following:
 - a. Accessory buildings attached to a principal building shall comply with the yard requirements of this Local Law for the principal building.
 - b. No more than two (2) detached accessory buildings excluding private garages, may be located on any one parcel of land in a residential district. Accessory building with less than fifty (50) square feet of floor area shall not be included in determining the number of accessory building on a property.
 - c. No detached accessory building in a residential district shall exceed fifteen (15) feet in height, except for a detached garage which may be up to twenty (20) feet in height.
 - d. With the exception of detached private garages all detached accessory buildings shall be located in the rear yard and subject to the setback requirement of the schedule. Detached garages shall be located to the rear of the front building line of the principal building and may be located in a side yard.
 - e. These provisions shall not apply to permitted uses in non-residential districts except: no detached accessory buildings incidental to permitted uses in such districts shall be closer to the street or right-of-way line than the minimum front yard setback for the principal building.

13. Nothing in this Local law shall restrict the construction, use or maintenance of public buildings, structures or facilities, parks or other publicly owned properties or the installation and maintenance of such public utilities as may be required to service any district. All facilities shall be subject to the yard requirements of this Local law and to site plan review.
14. All construction plans shall include consideration of water drainage needs. Site grading shall direct water away from buildings and structures to the natural drainage way. Any drainage affecting adjacent properties shall be considered by the Code Enforcement Officer.
15. Any structure damaged by fire or other natural disaster and determined by the Code Enforcement Officer to be completely destroyed by fire shall require a new building permit before any reconstruction is started. A new Certificate of Occupancy shall also be required.
16. Any structure partially destroyed by fire may be re-built in accordance with this Local Law and the following additional provisions:

All damage resulting from a fire including but not limited to size of building, bearing walls, entranceway, building materials, shall require a new building permit and said reconstruction shall meet or exceed the Uniform Code requirements and the provisions of this Local Law.
17. No more than one antenna or one dish (3ft.in diameter or smaller) per unit shall be permitted in any district. The above shall not be combined for more than a total of 2.
18. No more than two (2) dogs which are more than six (6) months of age may be kept, bred or boarded within the confines of any lot.
19. No lot may be used or occupied and no structure may be erected, maintained or used for the raising, harboring or housing of any farm animals.
20. The dumping of refuse, waste material and other substances excluding vegetative compost material, shall be prohibited in all districts. This is not, however, to be construed as prohibiting filling to establish grades following the issuance of a permit by the Code Enforcement Officer. Materials used as fill to establish grades shall consist solely of clean dirt, gravel and other clean fill. All materials applied shall be leveled and covered with at least four (4) inches of clean dirt and subject to approval of the Code Enforcement Officer.
21. Garage/yard sales are permitted in all districts including not more than three (3) per lot in a 12 month period. Each sale shall not span more than three (3) consecutive days. Signage shall comply with Article XII of this law. Additional structure by permit only.

22. Seasonal trade is permitted within the Village of Rushville in the C-1 and C-2 districts. Signage shall comply with Article VII of this law. Additional structures by permit only.
23. No outdoor burning of any waste materials will be allowed in any district.
24. It shall be unlawful to dig a hole on your property and bury garbage or debris, including but not limited to: waste materials, food with or without plastic bags, tires, rubber materials, plastics, refrigerators, stoves, metals, paints, empty paint cans, or any type of hazardous materials or liquids, waste construction materials, and any other materials that may be considered a contaminate to the soils.

5.1 FENCES

Fences erected in the village shall adhere to the following standards:

1. Fences (constructed or grown) in the village limits shall be maintained in appearance, stained or painted, safe, sound, and in an upright condition.
2. All fences when installed may have the finished side of the fence facing toward the owner of the fence.
3. All fences may be installed up to the property line and have a 0' set back, except where other parts of this regulation have set backs which shall apply. (See 5, 7 and 8 for setbacks).
4. Any type of fence or barrier grown or built located fronting a street or at an intersection shall have a maximum height of 36 inches so that it will not block the view of traffic. In the event it is grown, the barrier shall be maintained at the 36 inch maximum height. All other areas may have a maximum height of 6'. All fencing shall be conventional type that could be obtained at any retail outlet.
5. In the event that the Village sidewalk fronts or joins the land to have a fence, barrier, planting, or landscape timbers, there shall be a minimum set back of 3' on the vertical. No growings shall overhang the village sidewalk at any time that will interfere with the maintenance or walking traffic.
6. Any fence, barrier, plantings, located at an intersection shall have a minimum set back of 10' from the edge of the street pavement.
7. Fencing used to enclose a tennis court may be permitted up to ten (10') feet in height provided that such fencing is not less than twenty-five (25') feet from either the side or rear property line.
8. Fences can be attached to a building or structure at either end. Fences that are erected to run past a building or a structure shall have a minimum set back of 10' from any building or structure.
9. Corner fences and shrubs shall not block the view of traffic, so a driver can safely enter into the flow of traffic.

10. No fence shall be erected to encroach on any property line or upon a public right-of-way.

11. A survey map shall be provided prior to obtaining a building permit.

5.2 PROPERTY MAINTENANCE

1. It shall be unlawful for any person, as owner, occupant, lessee, agent or in any other capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any abandoned, junked, discharged, wholly or partially dismantled or unlicensed motor vehicles or vehicle, motorized equipment, appliance, rubbish, litter, garbage and wood products.

2. No appliance may be discarded, abandoned or stored in a place accessible to children without first completely removing any locking device and all doors.

5.3 CONSTRUCTION SAFETY BARRIERS

The construction of a safety barrier shall require a separate installation Permit. A safety barrier shall be erected prior to the actual work being started and shall be removed immediately when the safety hazard of construction has been eliminated from the construction site. The materials used to erect the barrier shall be made safe for the benefit of the general public. When possible a set period of time for the removal of the safety barrier will be stated on the permit.

5.4 TATTOO/BODY PIERCING PARLORS

1. No Tattoo/Body Piercing Parlor, as hereinafter defined, shall be operated within the Village of Rushville, except upon the issuance of a Special Use Permit, upon the terms and conditions set forth in this Article.

2. Definitions.

a. Health Officer - The Health Officer of the Village of Rushville.

b. Minor - Any person under the age of eighteen years.

c. Tattoo - The marking or coloring of the skin by pricking in coloring matter so as to form indelible marks or figures.

d. Body Piercing - The piercing of any part of the body, except the ear.

e. Tattoo/Body Piercing Artist - any person who actually performs the work of tattooing or body piercing.

f. Tattoo/Body Piercing Operator - any person who owns, controls, operates, conducts or manages any Tattoo/Body Piercing Parlor, whether or not such person actually performs the work of tattooing/body piercing.

g. Tattoo/Body Piercing Parlor - Any property or portion thereof, the use of which is devoted in whole or in part to the application of one or more tattoos or body piercings, upon a person.

3. The Special Use Permit required by this Article shall be issued by the Planning Board after a public hearing as required by the Zoning Law of the Village of Rushville, and only upon the following conditions:
- a. All Tattoo/Body Piercing Artists shall have obtained a permit as required by the laws or regulations of the State of New York. All permits shall be kept current, and shall be posted in a conspicuous place within the Parlor.
 - b. All Tattoo/Body Piercing Parlors shall be located in a C2 District.
 - c. The owner of the premises upon which a Tattoo/Body Piercing Parlor is operated shall comply with all applicable New York state Fire, Building Code, and Department of Health regulations, rules, and orders.
 - d. The regulation of the parking with respect to a Tattoo/Body Piercing Parlor shall be governed by that part of Article 9 of the Zoning Law of the Village of Rushville applicable to retail uses.
 - e. The minimum floor space of a Tattoo/Body Piercing Parlor shall be at least three hundred square feet.
 - f. Signage shall be governed by that part of Article 12.1 of the Zoning Law of the Village of Rushville applicable to signs in commercial districts.
 - g. No flashing signs shall be visible from outside the building in which a Tattoo/Body Piercing Parlor is operated.
 - h. The internal operations of the Tattoo/Body Piercing Parlor shall not be visible from outside the building in which the Tattoo/Body Piercing Parlor is operated.
 - I. Only retail items which relate directly to the tattooing/body piercing process may be sold on the premises.
 - j. No tattoo of body piercing shall be provided to a person who is a minor, unless the minor is accompanied by a parent or guardian. The violation of this condition shall result in an immediate review of the Special Use Permit by the Planning Board, and shall be grounds for the immediate revocation of the Permit.
 - k. In the event there are three (3) written violations filed in the Office of Code Enforcement of the Village alleging violation of any State or Local law, ordinance, rule, regulation, or order, upon the premises during the term of issuance of the Special Use Permit, the Special Use Permit shall be reviewed by the Planning Board, and may be subject to revocation.
 - L. Each Tattoo/Body Piercing Parlor shall have a work room separate and apart from a waiting room or any room or rooms used as such. The work room shall not be used as a corridor for access to other rooms. Patrons or customers shall be tattooed or pierced only in said workroom.

- M. The Special Use Permit (SUP) granted by the Planning Board shall be valid for twelve (12) months only from the date of issuance. A written application for the renewal of the SUP shall be made, on a form prescribed by the Planning Board, two months prior to the expiration date of the SUP. This will allow time for the Planning Board to schedule a Public Hearing prior to the expiration date of the SUP. Attendance of the applicant or his/her agent shall be mandatory at the Planning Board's Public Hearing at which the renewal of the Permit is considered. Should the applicant wish to be represented by an agent at the Public Hearing, the applicant must identify the agent in writing to the Planning Board prior to the Public Hearing. The failure of the applicant or his/her agent to appear shall result in the Permit not being renewed.

- N. By the issuance and acceptance of a Special Use Permit, the Tattoo/Body Piercing Operator shall be deemed to have consented to inspections of the Tattoo/Body Piercing Parlor by agents or employees of the Village, or by Public Health officials at any time during regular business hours.

- O. All property owners who own property adjacent to the premises for which a Special Use Permit or renewal thereof is sought under this Article shall be notified in writing of the date, time, and place of the public hearing to be conducted by the Planning Board with respect to the application for the Permit or renewal. The notice shall be sent to each owner by certified mail, return receipt requested, at least ten (10) days prior to the date of the hearing.

ARTICLE VI

APPLICATION OF REGULATIONS

6.0 APPLICATION OF REGULATIONS

The regulations set by this Local Law shall be the minimum regulations within each district and shall apply uniformly to each class of kind of structure or use of land, except as hereinafter provided:

- A.** No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.

- B.** No building or structure shall hereafter be erected or altered which:
 - 1.** Exceeds the height limitation for any structure within a specified district;
 - 2.** Accommodates or houses a greater number of families;
 - 3.** Occupies a greater percentage of lot area; or
 - 4.** Has narrower or smaller yards or other open spaces than herein required, or in any other manner contrary to the provisions of this Local Law and the requirements of the New York State Uniform Code.

- C.** No yard or lot existing at the time of enactment of this Local Law shall be reduced in dimension or area below the minimum requirement set forth herein. Yards or lots created after the effective date of the Local Law shall meet or exceed the minimum requirements established herein.

ARTICLE VII

DISTRICTS, USES AND REGULATIONS

7.0 RESIDENTIAL DISTRICT (R-1)

The purpose of the Residential District (R-1) District is to promote orderly low density development of single family dwelling units in residential neighborhoods. It is also the declared purpose of these regulations that these single family neighborhoods shall be free from other uses except those listed herein and hereby declared to be compatible with the residential character of this district.

A. PERMITTED PRINCIPAL USES

1. One single family dwelling per lot.
2. Public playgrounds and playgrounds, not for profit.
3. Garage/yard sales are permitted in all districts including not more than three (3) per lot in a 12 month period. Each sale shall not span more than three (3) consecutive days. Signage shall comply with Article XII of this Law. Additional structures by permit only.

B. PERMITTED ACCESSORY USES OR STRUCTURES

1. Private garages, or carports, for off-street parking.
2. Customary accessory structures serving residential uses including, but not limited to, private swimming pools, hot tubs, storage buildings, pet shelters and barbecues.
3. Fencing in accordance with the provision of this Local Law.
4. Customary home occupations such as dressmaking, millinery, preserving and home-cooking; Such occupations shall:
 - a. Be conducted only by owners on the premises;
 - b. Be carried on only in the principal structure on the lot;
 - c. Occupy no more than one-half of the habitable floor space of the floor on which they are conducted for (or twenty-five percent (25%) of the gross floor area), whichever is the smaller;
 - d. Restrict signage in accordance with Article XII; and
 - e. Provide off-street parking in accordance with Article IX.
5. Other antenna or towers may be either ground mounted, mounted on or attached to a building for support. A zoning permit issued by the Code Enforcement Officer shall be required prior to placing a ground mounted antenna in operation.

6. An antenna or tower which is ground mounted shall be located in rear yards only. Antenna or ground mounted towers shall be set back from all other structures and all property lines a distance which is not less than one and one-half (1-1/2 times the distance between the highest part of such antennae or tower and the ground. Guide wires, anchors and other supports for an antenna shall not be closer than ten (10) feet to any property line.
7. Other accessory uses not specified herein, may be authorized by the Zoning Board, provided that the Board determines that such uses are clearly accessory to the permitted principal use on the lot and consistent with the purpose and intent of the Zone district and this Local Law.
8. The following items may be parked behind the front wall of the primary building or in the rear yard. Up to Two campers and two boats. There shall be no parking of these items in the front yard without a permit for sale.

C. DIMENSIONAL REQUIREMENTS

The dimensional requirements for this district are specified in the Zoning schedule, which is part of the Local Law.

The minimum living space for a dwelling unit shall be 900 square feet.

D. PERMITTED SPECIAL USES

The following uses may be permitted: provided that a Special Use Permit is approved by the Planning Board, and issued by the CEO:

1. Single-family conversions to a two family dwelling.
2. Public and semi-public uses and buildings.
3. Tourist homes/bed and breakfast uses.

E. OFF-STREET PARKING REQUIREMENTS AND LOADING REQUIREMENTS

The off-street parking regulations are specified in Article IX of this Local Law.

F. SIGNS

Signs are permitted as listed in Article XII of this Local Law.

G. SITE PLAN APPROVAL

Site plan approval shall be required when building any new building or structure, addition, installing a swimming pool, installing a fence, building any accessory structure, garage, barn, the placing or building of storage sheds of any size, car ports, porches and deck.

- H.** No lot shall be used for the outside storage of unlicensed, unregistered, uncovered and uninspected vehicle(s) unless said vehicle(s) is being offered for sale in accordance with the following provisions: The parking of not more than one (1) unregistered motor vehicle at any one time for sale on the premises of the principal residential structure subject further to the following conditions:
1. Only two (2) vehicles, for which the resident holds title thereto, may be sold or offered for sale in any twelve (12) month period.
 2. Each vehicle to be displayed for sale shall require a Temporary Use Permit issued by the Code Enforcement Officer. Said permit shall be affixed to the inside window of the vehicle. Said permit shall state the Village of Rushville has no liability as to the warranty, or condition of said motor vehicle.
 3. Each Temporary Use Permit shall be valid for a period of thirty (30) days and may be renewed by the Code Enforcement Officer once for an additional period not to exceed thirty (30) days.
 4. In no event shall a vehicle/vehicles be displayed for sale for a period which exceeds sixty (60) days during any twelve (12) month period for a vehicle or combination thereof commencing with the date of first issuance of the Temporary Use Permit.
 5. Each vehicle displayed for sale shall have a for sale sign affixed to the windshield.
 6. No unregistered vehicle advertised for sale shall be parked within any public right-of-way.

I. Lighting

All exterior illumination shall be shielded from the view of all surrounding properties and streets.

7.1 COMMERCIAL DISTRICT (C-1)

The purpose of the C-1 Commercial District is to provide integrated and planned commercial areas, goods and services necessary to serve the needs of the population of the community.

A. PERMITTED PRINCIPAL USES

Generally recognized retail businesses and personal service establishments which perform services on the premises such as:

1. Administrative offices
2. Pharmacies
3. Banks
4. Professional personal services (i.e. dentist, doctor, real estate, insurance.
5. Grocery stores
6. Clothing stores
7. Art supply stores
8. Antique Stores
9. Restaurants
10. Self-service laundries and dry cleaners
11. Beauty parlors, tanning salons, barber shops
12. Fitness centers
13. Photographic studios
14. Essential Services

B. PERMITTED ACCESSORY USES AND STRUCTURES

1. Private garages and storage buildings which are necessary to store any commercial vehicles, equipment or materials on the premises and which are used in conjunction with a permitted business use.
2. Outdoor storage areas of products sold on the premises, provided such areas are not located in the front yard portion of the lot. All outdoor storage areas shall be fenced on all sides.

3. AWNING WITH SIGNAGE

- a. The minimum frame height shall be 8 ft.
- b. The minimum height from the sidewalk to the bottom of the awning canvas shall be 7'2".

4. No person shall place or display goods or allow the same within ten feet (10') of the highway curb or the edge of the blacktop, or within the highway right of way. Any display considered to be unsightly, incompatible or inconsistent with the character of the district shall be reviewed by the Village Planning Board. A written notice of the Planning Board's review meeting shall be sent to the property owner by certified mail, return receipt requested, a minimum of fifteen (15) days prior to the date of the meeting. If the Planning Board's decision is to remove the display, the Planning Board will authorize the Code Enforcement Officer to have the display removed by lawful process.

C. DIMENSIONAL REQUIREMENTS

The dimensional requirements in the C-1 Commercial District are specified in the zoning schedule which is part of this Local Law.

D. SPECIAL PERMITTED USES

The following permitted special uses may be permitted in the C-1 Commercial District with Planning Board approval and a Special Use Permit:

1. Conversion into an apartment:

The second story may be converted into a single apartment and the first floor may be converted into a single apartment with a minimum of 50% of the total first floor space to be dedicated to the front part of the building for any allowed commercial use in the C-1 district. The following conditions shall be met for the conversion into an apartment.

The conversion shall meet the requirements of the applicable provisions of this Local Law and the New York State Uniform Fire Prevention and Building Codes. Each apartment shall be 1,000 sq.ft..

2. Bed and Breakfast

E. OFF-STREET PARKING AND LOADING REGULATIONS

The off-street parking and loading regulations are specified in Article IX of this Local Law.

F. SIGNS

Signs are permitted as listed in Article XII of this Local Law.

G. SITE PLAN APPROVAL

Site plan approval, as required in Article 17.2 of this Local Law, shall be obtained for the C-1 District when any change of use is proposed

7.2 COMMERCIAL DISTRICT (C-2)

The purpose of the C-2 Commercial District is to permit commercial uses and buildings Commercial District are designed to accommodate commercial operations whose external physical effects are restricted to the area of the districts and in no manner affect in a detrimental way any of the surrounding districts.

A. PERMITTED PRINCIPAL USES

1. Laboratories engaged in research, testing and experimental work, including any process normal to laboratory practice and technique.
2. The compounding, assembling and/or treatment of articles or merchandise from previously prepared materials provided that no hazardous chemical process is involved in the manufacturing process.
3. The assembly of electronic devices and electrical appliances provided that all necessary and approved safeguards are employed to prevent hazard and annoyance to the community.
4. The assembly of musical instruments, novelties, toys or related products, business machines and custom built boats.
5. The compounding, processing and storage of candy and confections, frozen foods, cosmetic, pharmaceutical products, toiletries and food products.
6. Warehousing facilities.
7. The assembly of precision tools.
8. Machine shops.
9. Agribusiness operations
10. All permitted and accessory uses of the C-1 District.
11. Motels.
12. Automobile service stations.
13. Restaurants and drive-in restaurants
14. Manufactured home sales.
15. New and used automobile sales and services.
16. Auto repair shops.
17. Gas stations.
18. Essential services.
19. Service Stations

B. PERMITTED ACCESSORY USES AND STRUCTURES

1. Customary accessory uses designed as an integral part of the C-2 commercial development and scaled for the exclusive use of the development.
2. Parking areas for employees and visitors parking.
3. Fencing in accordance with the provisions of this local zoning law.
4. Storage Buildings

5. AWNING WITH SIGNAGE

- a. The minimum frame height shall be 8 ft.
- b. The minimum height from the sidewalk to the bottom of the awning canvas shall be 7'2".

C. DIMENSIONAL REQUIREMENTS

The dimensional requirements in the C-2 Commercial District are specified in the zoning schedule which is part of this Local Law.

D. PERMITTED SPECIAL USES

The following uses may be permitted in the C-2 Commercial District consistent with provisions of Article XI, provided a Special Use Permit is reviewed and approved by the Planning Board and issued by the CEO.

1. Essential services.
2. Public and semi-public uses and buildings.
3. Commercial storage buildings, including mini-warehouse facilities.
4. Industrial Parks.
5. All permitted Special Uses in the C-1 District
6. Farm machinery sales and repair service
7. Automobile parts sales.
8. Miniature Golf.
9. Heavy Equipment Sales and Rental.
10. Tattoo/Body Piercing Parlors. See Article 5.4 for the requirements of a Special Use Permit
11. Conversion into an apartment:

The second story may be converted into a single apartment and the first floor may be converted into a single apartment with a minimum of 50% of the total first floor space to be dedicated to the front Part of the building for any allowed commercial use in the C-2 district. The following conditions shall be met for the conversion into an apartment: - continued

The conversion into an apartment shall meet the requirements of the applicable provisions of this Local Law and the New York State Uniform Fire Prevention and Building Codes. Each apartment shall Have a minimum 1,000 sq.ft..

E. PROHIBITED ACTIVITIES

No land, building, or premises may be used in any way, which will cause or result in:

1. Dissemination of dust, smoke, observable gas or fumes, odor, noise, vibration or excessive light beyond the immediate site of the building or buildings in which such use is conducted.
2. Menace to neighboring properties by reason of fire, explosion, or other physical hazard, including radiation.
3. Harmful discharge of waste materials, including refuse and airborne or waterborne wastes.
4. Unusual traffic hazards or congestion.

F. GENERAL PROVISIONS

1. All processing of materials, including fabrication, shall occur indoors. There shall be no outside parking of machinery, equipment or commercial vehicles, except during business hours.
2. There shall be no outside storage of material, raw, processed or partially processed, in bulk or packages, except during actual construction on the site. There shall be no outside stock piles or storage racks.
3. All equipment for the handling of material and processes shall be enclosed in a suitable building. Equipment as used in this section includes, but is no limited to, conveyors, elevators, storage silos, hoppers, storage tanks and unloading docks.
4. All waste, scrap, refuse, empty containers, drums, bottles and cartons shall be stored in suitable closed containers.
5. Notwithstanding any other provisions, side and rear set-backs adjacent to any Residential District shall be a minimum of 75 feet, of which 20 feet thereof shall be used to create a screened buffer zone. Such screening shall not be less than four feet in height and may be accomplished by deciduous and/or evergreen plantings or by a fence of acceptable design. All such buffers and screenings shall be property maintained by the owner or owners of the screened industrial property.
6. **DRIVE-IN RESTAURANTS**
Shall not be located closer than two hundred feet to a Residential District.

7. AUTOMOBILE SERVICE STATIONS

- a. All oil drainage pits shall be located within an enclosed structure and shall not be located closer than 50 feet to any adjacent property line.
- b. Gasoline pumps shall be set back at least 30 feet from any street line.
- c. Storage of any petroleum product (except gasoline) or LP gas may be above ground, but no closer than 50 feet from any adjacent property line.
- d. No automobile service station shall be used for storage or warehousing of fuel oil, gasoline, diesel fuel or LP gas that is distributed elsewhere.
- e. When an automobile service station abuts a residential lot or residential district, there shall be a buffer area consisting of evergreen shrubbery or closed fence of at least 6 feet in height to protect the neighboring property owner from offensive sights and sounds.

G. OFF-STREET PARKING AND LOADING REGULATIONS

The off-street parking and loading regulations are specified in Article IX.

H. SIGNS

Signs are permitted as listed in Article XII of this Local Law.

I. SITE PLAN APPROVAL

Site plan approval as required in Article 17.2 of this Local Law, shall be obtained for the C-2 District when any change of use, or a building addition is proposed.

7.3 MULTIPLE DWELLINGS (M-D)

Due to the type of development characteristic to multiple dwellings, any land used for the purpose of multiple dwellings must be zoned as a Multiple Dwellings (M-D) District.

A. INFORMATION REQUIRED:

- 1. Map and plan to scale with contour lines prepared by a licensed engineer, in accordance with the Village Rezoning Regulations showing the following:
 - a. Relation of project to adjacent zoning districts
 - b. Existing and proposed streets and roads
 - c. Existing and proposed final elevation of contours
 - d. Location of existing and proposed structures on this lot and adjacent lots with setbacks for each building site
 - e. Location of utilities within the development - cont.

f. boundaries of any flood plains, wetlands

B. PERMITTED USES

Townhouses, apartment houses.

C. DESIGN STANDARDS FOR SENIOR CITIZEN HOUSING FOR 55 AND OLDER

1. 1st floor will be adaptable for disabled use.
2. One bedroom with not more than two residents per housing unit.
3. Parking: shall be 1.25 spots per unit.
4. Apartment size: Minimum of 1000 square feet along with 20 additional sq. ft. of locked storage and 30 sq. ft. per unit in aggregated community space.
5. Elevator access to a minimum of 2/3 of the units above the first story.
6. Slab on grade construction is suitable for this type of housing.
7. Allow up to 8 units per building, allowing for 4 on 4 construction.
8. Area required - minimum (3) acres.

D. DESIGN STANDARDS FOR ALL OTHER MULTIPLE DWELLING UNIT DEVELOPMENT

The following site design standards shall apply to all Multiple Dwelling Units in the M-D District .

1. The minimum tract area for Multiple Dwelling Unit development shall not be less than three (3) acres.
2. The maximum density of residential development per gross acre of land including roadways, pedestrian walkways, common recreation and off-street parking areas, open area and all non-residential areas shall not exceed eight (8) dwelling units per acre.
3. The minimum habitable floor areas, exclusive of common areas such as halls, foyers and basement utility areas, shall be as follows:
 - a. Efficiency unit: one thousand (1000) square feet.
 - b. One (1) bedroom dwelling unit: one thousand (1000) square feet.
 - c. Two (2) bedroom dwelling unit: one thousand (1000) square feet each.
 - d. Three (3) bedroom dwelling unit: one thousand (1000) square feet each.
 - e. Four (4) bedroom dwelling unit: one thousand (1000) square feet each.

4. Recreation, open space, maintenance

- a. Multiple family dwelling developments shall be designed to create usable private open space. A minimum of ten (10) percent of the total tract area, exclusive of the required setback areas, buffer strip and parking areas shall be designated for common recreational purposes.
- b. No recreational area shall be less than ten thousand (10,000) square feet in area nor less than one hundred (100) feet in width. Areas designated for recreation purposes shall be approved by the Planning Board.
- c. Multiple family dwelling developments shall be attractively shrubbed and properly maintained. Open space adjacent to, around, or between driveways, parking areas, structure or other required improvements shall be graded and seeded to provide a thick stand of grass or other plant material.
- d. Multiple family developments shall be constructed in accord with the site plan approved by the Planning Board and shall be designed to insure adequate provisions for drainage and storm water run-off.

5. Apartment buildings, or multi-family dwellings, shall contain no more than eight (8) dwelling units.

6. Unit distribution

- a. No more than thirty (30) percent of the total units within a multiple family dwelling development shall be efficiency units.
- b. No more than thirty (30) percent of the total units within a multiple family dwelling development shall be three (3) or more bedroom units.

7. Unit design standards

Each multiple family dwelling unit building within a multiple family development site, shall be regulated as follows:

- a. Setback: No building shall be closer than one hundred (100) feet to any street or public right-of-way and 50' from any other property line.
- b. Minimum distance between buildings shall be twenty-five (25) feet.
- c. Every building shall have a minimum setback of twenty (20) feet from all interior roads, driveways and parking areas.
- d. All stairways to the second floor or higher shall be located inside the building.

8. Access to public roads

- a. All apartment and/or multiple family dwelling developments shall have direct access to a public street.

- b. Where there are eight (8) or more dwelling units in a development, access from the common parking area(s) to the public street must be provided by either a private driveway or a street dedicated to the Village by the developer. The minimum width of any private driveway in a multiple family development shall be:
 - (1) Twelve feet (12') when no on-street parking is allowed and
 - (2) Twenty-four feet (24') when parking is allowed on one side of the street.

9. Services

- a. Each multi-family dwelling unit shall contain complete kitchen facilities, toilet, bathing and sleeping facilities.
- b. Common storage areas shall be provided for bicycles, perambulators and similar type of equipment. Said storage areas may be provided in the residential structure or in a separate detached accessory building. Space devoted for such use shall not be less than forty (40) square feet in area per each dwelling unit.
- c. Within each apartment complex there shall be sufficient laundry, drying and other utility areas
- d. Garbage/recycling storage areas shall be provided for each building. Such facilities shall be located with a view both to convenience and to minimizing the detrimental effect on the aesthetic character of the building(s) and shall be enclosed and shielded from view by fencing, walls or shrubbery of at least six (6) feet in height around the perimeter. Fencing and walls shall be not more than fifty (50) percent open on the vertical surface.

10. Utilities

All public utility, electric, gas, cable television and telephone lines shall be installed underground.

11. Off-street parking

Requirements for off-street parking as provided in Article XII of the Local Law shall be met, except that the location of off-street parking lots may be modified to conform with the approved site plan, provided that off-street parking shall not be located within the required yard setback areas. Paved pedestrian walkways, with appropriate lighting, shall be provided from off-street parking area to all living units.

12. Lot Coverage

The aggregate lot coverage of multiple family dwelling developments shall not exceed thirty (30) percent of the total lot area.

13. Structure Height

Structures in multiple family developments shall typically not exceed thirty-five (35) feet in height.

14. Home occupations shall be limited to one per lot.

15. All building construction must conform to the applicable provisions of the New York State Uniform Fire Prevention and Building Code.

16. No part of the cellar shall be used for living space.

E. PUBLIC FACILITIES

1. All sewage disposal facilities and water facilities must be approved by the New York State Department of Health prior to the issuance of any building permit by the Village of Rushville.

2. All public utilities must be placed underground.

3. Each dwelling unit must be provided with facilities for disposal of solid waste.

4. No burning of any materials or waste matter will be allowed.

F. OPEN SPACE AND RECREATION AREA

1. No less than ten (10) per cent of the area to be rezoned or four hundred (400) square feet per dwelling unit, whichever is greater will be devoted to open space and recreational areas. This area will not include parking areas, streets, roads, or sidewalks.

2. The open space and/or recreational area shall be developed for passive and active recreation facilities.

G. LANDSCAPING: NEW CONSTRUCTION

1. Landscaping shall be provided by the developer and with said landscaping being approved by the Village of Rushville Planning Board.

2. Buffer areas of at least eight (8) feet wide shall be maintained from any adjacent property line.

7.4 COMMUNITY SERVICES PROPERTIES

The purpose of Community Service Properties is for the use of community services. These properties exist within other districts throughout the Village and have been identified on the official zoning map.

A. PERMITTED PRINCIPAL USES

1. Community Activities

ARTICLE VIII

NON-CONFORMING USES AND BUILDINGS

8.0 CONTINUATION OF EXISTING USES

8.1 VALIDITY

Any use of property legally existing at the time of the original passage of this law that does not conform to the regulations prescribed in the preceding sections shall be deemed a Pre-Existing Non-Conforming use and may be continued.

8.2 NON-CONFORMING USE OF LAND

The following regulations shall apply when no buildings are involved:

- A.** A non-conforming use of land shall not be changed to another non-conforming use.
- B.** If the non-conforming use of land, or any portion thereof, ceases for any reason for a period of twelve (12) months, or is changed to a conforming use, any future use of the land shall conform to the provisions of this Law.
- C.** The non-conforming use of land shall not be increased to a greater area than that occupied by such use at the time of the adoption of this Law.
- D.** A preexisting non-conforming lot of record may be issued a building permit by way of meeting all the required setbacks, front, rear and sides or by obtaining the necessary variances.

8.3 NON-CONFORMING USE OF BUILDING

- A.** A non-conforming building or structure may be changed to a more restrictive non-conforming building.
- B.** No such building may be enlarged in a way which increases its non-conformity.
- C.** Any non-conforming building may be extended throughout any parts of the building which were arranged or designed for such use at the time of the adoption of this ordinance, but no such use shall extend to occupy any land outside such building.
- D.** Any building, or building and land combination, in or on which non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such use is located, and the non-conforming use may not hereafter be resumed.

8.4 NON-CONFORMITY, OTHER THAN USE OF LAND OR USE OF BUILDING

A building that is conforming in use, but does not conform as to the height, yard, parking, frontage, loading or land coverage requirements of this ordinance, shall not be considered to be non-conforming. No permit will be issued, however, that would result in the increase of any such non-conformity.

8.5 RESTORATION OF NON-CONFORMING BUILDING

Should any legally existing non-conforming use be destroyed by any means, it may be repaired or reconstructed to the same size and location, providing that such reconstruction be completed within (1) year from the time the destruction occurred.

8.6 SPECIAL USES

Any use lawfully existing at the time of the adoption of these regulations, in a district in which such use may be classified as special permit use in this law, shall without further action be deemed to be a conforming use.

ARTICLE IX

PARKING REQUIREMENTS

9.0 OFF-STREET PARKING

- A.** Off-street parking requirements for new parking lot installations, expansions, conversions to multi family/bed & breakfast and reconstructed parking lots, shall include all of the following requirements as stated below. Such parking space shall be at least 200 square feet.

<u>USE</u>	<u>MINIMUM REQUIRED PARKING SPACES</u>
Studio apartment	1 for each unit
Single and two family residences	2 for each dwelling unit
Senior citizen	1.25 for each dwelling unit
Multiple dwelling units, apartment house townhouses	2 for each dwelling unit
Motels, hotels	1 for each sleeping room
Offices, retail uses, personal uses	1 for each 200 square feet of floor space
Restaurants	1 for each 25 square feet of floor space
Churches, schools (public or semi-public), theaters, and other places of assembly	1 for each 4 seats at maximum capacity
Industrial or manufacturing	1 for each 600 square feet of gross floor area
Warehouses	1 for each employee
Funeral Homes	10 per viewing room
Institutions, hospitals, nursing homes	1 for each two patients or residents
Bed and Breakfast	1 for every sleeping room

- B.** On site requirements may be waived by the Planning Board up to 100 percent of the spaces required, provided that identical space is provided in a permanent and accessible manner by the applicant within 300 feet of the use or within 1000 feet of any municipal parking lot.
- C.** Zoning setback for residential parking and driveway shall be 0 feet.
- D.** Zoning setback for commercial parking and driveway shall be 10 feet when adjacent to a residential district.

- E.** In all districts exclusive use of driveways, parking areas for one or more vehicles shall be restricted to the side and/or rear of any building in order to preserve the green area and integrity of our village.
- F.** Design Requirements
1. Off-Street parking space shall not be less than ten (10) feet in width and twenty (20) feet in depth equaling (200 sq. ft.) exclusive of access ways and driveways.
 2. Off-Street parking areas for non-residential uses shall provide an additional area of one hundred (100) square feet of area per each off-street parking space to provide sufficient area for access drives and aisles.
 3. Off-street parking areas with a capacity for more than twenty (20) vehicles shall delineate fire lanes and post "No parking Markers" for the fire lanes.
 4. All parking areas, passageways and driveways shall be adequately drained and surfaced with a dustless, durable, all weather surface, subject to approval of the Planning Board.
 5. Each off-street space shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk or alley.
 6. The collective provision of off-street parking areas by two (2) or more buildings or uses located on adjacent lots may be approved by the Planning Board provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately.
 7. No more than two (2) driveways, of not less than twenty (20) feet nor more than thirty (30) feet in width, shall be used as a means of ingress and egress for each non-residential use, except where the deviation in the number of, or width of such driveways, may be deemed necessary by the Planning Board because of traffic safety conditions.
- G.** Screening and Landscaping
1. Off-street parking areas for more than five (5) vehicles shall be effectively screened on the sides that the Planning Board shall determine for the safety and protection of the neighbors. Screening may be by fence of acceptable design, unpierced masonry wall, landscaped berm or compact evergreen hedge. Such fence or hedge shall not be less than six (6) feet in height and shall be maintained in good condition.

2. When a parking area for five (5) or more vehicles is within or abuts a residential district, a planted buffer area shall be provided in addition to the fence or wall specified in paragraph (1) above, Landscaping utilized to provide this buffer shall not be less than two (4) feet in height at the time of planting and spaced not more than three (3) feet apart. The planted buffer area shall not be less than ten (10) feet in depth.

H. Lighting

1. All off-street parking areas and appurtenant passageways and driveways shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation.
2. Any lights used to illuminate an off-street parking area shall be so arranged as to reflect the light away from all adjoining property.

ARTICLE X

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS

10.0 MANUFACTURED HOUSING REQUIREMENTS

- A.** All manufactured housing units proposed to be located and occupied within the Village of Rushville shall bear a HUD SEAL, signifying compliance with the construction standards established by the United States Department of Housing and Urban Development in effect at the time of the construction of the manufactured housing unit. Or shall bear a seal from the State of New York, signifying compliance with the New York State Uniform Fire Prevention and Building Code in effect at the time of construction of the manufactured housing unit.
- B.** Prior to the location of a manufactured housing unit within the Village of Rushville, a building permit shall be obtained from the Village Code Enforcement Officer. Applicants shall provide details of all improvements subject to the requirements of the New York State Uniform Fire Prevention and Building Code, including but not limited to entry stairs, (including stamped plans for the following: a foundation design, site plan location of the foundation, including all anchoring requirements, masonry walls around the manufactured unit to make weather tight, location of utility hook ups), A copy of the NYS installer's Certificate and number for the installer, a copy of the manufacturer's installation specifications. In the event the unit is a used unit it shall have a structural engineer inspect the unit at its current location before being moved and provide a report as to the condition of the unit, structurally sound, siding and roof conditions, utility conditions, Pictures of the unit shall be provided to the Code Enforcement officer. This report is to determine whether the unit is acceptable and meets current State and Local codes to be located in the Village of Rushville.
- C.** Prior to occupancy of any manufactured housing unit within the Village of Rushville, an occupancy permit shall be obtained from the Village Code Enforcement Officer. The Code Enforcement Officer shall inspect

all footings, utility connections, access improvements such as entry stairs, and other site improvements to certify compliance with the New York State Uniform Fire Prevention and Building Code. During said inspection the Code Enforcement Officer shall verify that the manufactured housing unit proposed to be occupied shall bear a HUD seal or a seal from the State of New York in compliance with Paragraph A of this section. During said inspection, the Code Enforcement Officer shall verify that the current condition of said unit complies with the HUD or New York State standards in effect upon the date of manufacture of such a unit. In the absence of either a HUD or New York State seal the manufactured housing unit shall be required to conform to the current standards of the New York State Uniform Fire Prevention and Building Code, and shall be subject to obtaining a building permit prior to any site construction. At a minimum, all manufactured housing units shall be anchored in compliance with manufacturers specifications. Any manufactured housing unit failing to comply to the requirements of this Section shall not be occupied within the Village of Rushville. The Code Enforcement Officer shall furnish the applicant with a written list of violations of said codes upon inspection. Such violations shall be remedied by the applicant prior to the issuance of an occupancy permit. If such violations are not remedied within 90 days, the unit shall not be occupied within the Village of Rushville and shall be removed from the property at the applicant's or owner's expense

- D. Manufactured housing units which legally are located and occupied as of January 1, 2011, shall not be subject to the requirements of Paragraphs A, B and C of this section provided that such units are not relocated. The replacement of any existing manufactured housing unit within the village with another manufactured housing unit shall comply with Paragraphs A, B and C of this section. Also it shall be determined if the manufactured home is compatible with the neighborhood by way of design and character in the following ways. The manufactured home must have a pitched shingle roof, horizontal vinyl or siding, and be masonry skirted within 30 days of set. The home must have on a stamped engineered foundation plan with drainage away from the foundation. All utility hook ups shall be permanent, located underground and out of site under the manufactured unit. The unit must comply with HUD, Local and or state codes. Pre-existing the date of this Zoning Law, Manufactured Home Parks are exempted only from installing the concrete skirting, all other zoning laws shall apply.
- E. Paragraphs A,B,C and D shall apply equally to all manufactured housing within the Village of Rushville whether located within manufactured housing parks or on an individual lot.

10.1 MANUFACTURED HOME PARK REQUIREMENTS

- A. All new Manufactured Homes Parks shall require a special use permit to locate a manufactured home park in the Village of Rushville and must provide the following information:
 - 1. Site plan review stipulations
 - 2. Map drawn to scale showing:
 - a. Location, size of each lot, required yards and setbacks

M. No manufactured home shall be sold within the parks unless such manufactured home is placed upon a lot and is connected to all utilities.

N. The owner of the park shall:

1. Establish a name for each street within the park.
2. Keep a record of all residents of the park, including the make, serial number, and year of the manufactured home, which shall be forwarded to the Board of Assessors.
3. Maintain all roads and streets within the park.
4. Provide for a system of refuse collection.
5. Provide street lighting.

10.2 INSPECTION

The Code Enforcement Officer shall from time to time inspect said park to determine compliance with the Local Law and all other state rules and regulations. If said park is found to be in violation with any provisions of the State or local Laws, he shall take all appropriate action to bring compliance within the law.

ARTICLE XI

DIMENSIONAL REQUIREMENTS

	<u>MINIMUM LOT AREA</u>	<u>LOT SIZE MIN WIDTH</u>	<u>LOT DEPTH</u>	<u>SETBACKS</u>			<u>MAXIMUM BLDG HT</u>	<u>MAXIMUM LOT COVERAGE</u>
				<u>FRONT</u>	<u>REAR</u>	<u>SIDE</u>		
RESIDENTIAL DISTRICT (R-1)								
PRINCIPLE STRUCTURE								
Single Family	20,000 sq ft	100'	150'	35'	30'	15'	35'	30%
Two Family	20,000 sq ft	100'	150'	35'	30'	15'	35'	30%
Accessory Structures				35'	6'	6'	15'	
MULTIPLE DWELLINGS (M-D)								
Multiple Dwellings (MD)	3 Acres	150'	100'	50'	50'	15'	35'	35%
Accessory Structures				25'	6'	6'		
Manufactured Home Park - 5 Acres		60'	100'	50'	50'	15'	35'	35%
	See Article X D for unit lot size within the park							
COMMERCIAL DISTRICT (C-1)								
Principle Structures	5,000 sq ft	50'	100'	10'	20'	**	35'	35%
Accessory Structures				10'	6'	6'	35'	
COMMERCIAL DISTRICT (C-2)								
Principle Structures	10,000 sq ft		100'	50'	25'	15'	35'	50%
Accessory Structures				50'	8'	8'	35'	

** None except when it abuts a residential district. The side yard would then be twenty feet.

ARTICLE XII

SIGNS

12.0 SIGNS - GENERAL REGULATIONS

- A. All signage is subject to the application, permit, and approval requirements of the district in which it is situated. Real estate signs are excluded from required permits but must otherwise meet the sign requirements.
- B. Signs may be illuminated, but shall be non-flashing and shall not glare on adjacent properties.
- C. No sign shall be situated in such a way as to obstruct the line of vision necessary for safe entrance to or exit from streets, driveways, and parking lots.
- D. No sign shall be placed within any right-of-way of any state, village, or county road except for C-1 District only which will allow projecting perpendicular signs (Article 12.1 E), portable signs (Article 12.1 G), awnings (Article 12.1 H). The afore mentioned signs shall comply to the sections of Village Law as identified above.
- E. Signs for advertising purposes shall not be placed on a parked vehicle or trailer in any manner to circumvent this Article.
- F. No sign shall be placed on the roof of any building.
- G. No sign or signs shall remain visible on a property after a business has closed Permanently or the property becomes vacant. All signage shall be removed from public display.
- H. **REGULATION EXEMPTIONS**
 - 1. Flags and insignia of any government except when displayed in connection with commercial promotion.
 - 2. Legal notices.
 - 3. Indoor signs.
 - 4. Identification, informational, or directional signs erected or required by governmental bodies.
 - 5. Safety signs, public road signs, historical markers, or highway directional signs erected by municipal or public agencies.
- I. **DESIGN GUIDELINES**
 - 1. Signs should be designed to be compatible with the surroundings and appropriate to the architectural character of the buildings on which they are placed. Sign panels and graphics should relate with and not cover architectural features, and should be in proportion to them.
 - 2. Signs should be appropriate to the types of activities they represent.

3. Layout should be orderly and graphics should be of simple shape such as rectangle, circle or oval.
4. No more than two (2) typefaces should be used on any one sign or group of signs indicating one message.
5. The number of colors used should be the minimum consistent with the design.
6. Illumination should be appropriate to the character of the sign and surroundings.
7. Groups of related signs should express uniformity and create a sense of harmonious appearance.
8. Signs may be made of wood, plastic, metal, fabric or painted.

12.1 SIGNS IN COMMERCIAL DISTRICTS

- A. No part of any sign shall be higher than thirty-five (20) feet from the immediate adjacent ground level.
- B. A maximum of 20% of the total exterior square footage is allowed for all signage.

C. FREE STANDING SIGNS

1. No more than twenty (20) square feet of face area per side shall be permitted.
2. All parts of a sign must be located between the sidewalk and the building.
3. Where there are no sidewalks, all parts of a sign must be set back a minimum of ten (10) feet from the curb.

D. WALL SIGNS

1. The area of a sign shall be determined by the smallest rectangle that encompasses all of the letters or symbols which make up the sign. If the background is of a different color or material than the general finish of the building (whether painted or applied), or if there is a border or frame these shall be included in the sign area.
2. The sign shall not exceed two (20) square feet. The number of signs may be 2 signs maximum per building.
3. A wall sign may have a maximum projection of twelve (12) inches from the face of the building wall to which the sign is attached.

E. PROJECTING PERPENDICULAR SIGNS

1. No projecting sign shall exceed a total of twenty (20) square feet of sign area per side.

2. No sign shall project more than six (6) feet from any exterior wall of a building; nor shall any part of such projecting sign be less than ten (10) feet above ground level. No part of any projecting fabric sign, shall be less than seven (8) feet above ground level.
3. No more than one (1) projecting perpendicular sign shall be permitted per business.
4. All signs must be fastened in a safe manner so as to withstand high wind or other adverse weather conditions.

F. PROJECTING PARALLEL SIGNS

1. No projecting sign shall exceed a total of twenty (20) square feet of sign area per side.
2. No part of any sign shall be less than seven (8) feet above ground level.
3. All signs must be fastened in a safe manner so as to withstand high winds or other adverse weather conditions.

G. PORTABLE SIGNS

1. Must allow free passage of pedestrians.
2. No more than six (6) square feet of face area per side shall be permitted.

H. AWNING WITH SIGNAGE

1. The minimum frame height shall be 8 ft.
2. The minimum height from the sidewalk to the bottom of the awning canvas flap shall be 7'6".

12.2 SIGNS IN RESIDENTIAL DISTRICTS

- A. One sign of no more than two (2) square feet of face areas per side, 1' by 2' shall be permitted for each dwelling lot.
- B. All signs for any non-dwelling unit in a residential district may exceed 6 square feet; however, all such signs shall be reviewed and approved by the Planning Board.

12.3 SIGNS: TEMPORARY

A. ON-PREMISE AND OFF-PREMISE

1. On and Off-premise temporary signs advertising any political, religious, charitable or civic enterprise may be erected for a period of time not to exceed ninety (90) consecutive days in a 12 month period. Such temporary signs must be removed within a week after the event.

12.4 A. ON-PREMISE AND OFF-PREMISE (Con't)

2. On and Off-premise temporary signs advertising home occupations may be erected upon the issuance of a temporary permit for a period of time not to exceed 90 consecutive days in a 12 month period.
3. On and Off-premise temporary signs shall be placed in such a manner as not to impede pedestrian traffic.
4. On and Off-premise temporary signs shall not be placed within the Village or State Highway right-of-way.

B. OFF-PREMISE

1. You must live or own a business in the Village of Rushville limits to be able to have a off premises sign no others are allowed.
2. Off-premise signs shall be permitted in any district for a period not to exceed ninety (90) consecutive days in a twelve (12) month period.

C. FOR SALE, LEASE, OR RENTAL SIGNS

1. One (1) on-premise sign advertising that the premises upon which the sign is located is for sale, lease or rental shall be allowed.
2. The sign shall not exceed four (4) square feet in area; if two sided, the second identical sign face area shall not be counted.
3. The sign shall not be illuminated.
4. The sign shall not be located between the sidewalk and the street, nor nearer than three (3) feet from the nearest boundary of the street or any lot line.
5. All such signs shall be removed five (5) days after the sale, lease or rental of the premises.

12.5 PRE-EXISTING, NON-CONFORMING SIGNS

- A. Any sign in existence at the date of the adoption of this Local Law which would be in violation under the provisions of the Law, shall be allowed to continue as long as it is maintained.
- B. The failure to keep a non-conforming sign maintained shall constitute abandonment and such sign may not be reused, and must be removed.
- C. Any existing, non-conforming sign shall not be altered, rebuilt, enlarged, extended, or relocated, unless such action changes a non-conforming sign into a conforming sign as provided herein.

12.6 PERMITS

- A. Permits are not required for the following signs:
 - 1. Real Estate
 - 2. Garage Sales
 - 3. Residential signs 6 square feet or less
 - 4. Temporary - See Article 12.4.
- C. Permits are required for all other signs

ARTICLE XIII

BED AND BREAKFAST

13.0 GENERAL REQUIREMENTS:

All Bed & Breakfasts, regardless of guest occupancy size, must:

- A. Have a Special Use Permit in all districts.
- B. Comply with the NYS Uniform Fire Prevention Building Code and NYS Sanitary Code.
- C. Post the official occupancy in a conspicuous location as required by the Code Enforcement Officer.
- D. Be inspected every 3 years for compliance with conditions and provisions Of special use permits and shall be reviewable by the Planning Board.
- E. Provide parking in accordance with Article IX.
- F. Restrict sleeping areas for guests to the first two (2) stories.
- G. Have an owner living in the residence.
- H. Post a floor plan with directions for emergency exit in each sleeping room.
- I. Have signs that comply with Article XII of this Law.
- J. Not more than 4 bedrooms for overnight accommodations, one (1) reserved for the owner - maximum bedrooms, five (5).
- K. Must have proper rope ladder per bedroom for fire escape purposes.

ARTICLE XIV

SOIL EROSION AND SEDIMENTATION CONTROL

14.0 PURPOSE

The purpose of this article is to protect public, health, safety and welfare in the Village of Rushville by regulating site preparation and construction activities, including excavation, filling, grading and stripping so as to prevent problems related to erosion, sediment or drainage.

- A.** Preserve the quality of the natural environment from such adverse effects of site preparation and construction as: (a) pollution of lakes, ponds and watercourses from silt or other materials; (b) unnecessary destruction of trees and other vegetation; (c) excessive exposure of soil to erosion; (d) unnecessary modification of natural topography of unique geological features; and (e) failure to restore sites to an attractive natural condition.
- B.** Protect people and properties from such adverse effects of site preparation and construction as: (a) increased runoff, erosion and sediment; (b) increased threat to life and property from flooding or storm waters; (c) increased slope instability and hazards from landslides and slumping; and (d) modifications of the groundwater regime that adversely affect wells and surface water levels.
- D.** Protect the Village of Rushville and other governmental bodies from Having to undertake, at public expense, programs of repairing roads, flood protection facilities and other public facilities.
- D.** Site preparation and construction shall be fitted to the vegetation, topography and other natural features of the site and shall preserve as may of these features as feasible.

14.1 SITE PREPARATION

No site preparation shall commence until a Soil Erosion and Sedimentation Control Permit has been issued for any activity requiring a permit as listed in Section 15.2.

14.2 ACTIVITIES REQUIRING A PERMIT

None of the following activities shall be commenced until a permit has been issued under the provisions of this local law.

- A.** Site preparation in connection with the subdivision of land into two or more parcels or as regulated under The Subdivision Regulations of the Village of Rushville.
- B.** Site preparation within wetlands regulated by the New York State Department of Environmental Conservation under the Fresh Water Wetlands Act of the State of New York.
- C.** Site preparation within the one hundred year floodplain and/or floodway of any watercourse as regulated under the Flood Protection Law and Zoning Laws of the Village of Rushville.

- D. Site preparation requiring site plan or special use permit approval as regulated in the Zoning Ordinance of the Village of Rushville.
- E. Stripping or grading which affects more than 10,000 square feet of ground surface within any parcel or any contiguous area.
- F. Excavation or filling which exceeds a total of 200 cubic yards of material within any parcel or contiguous area.
- G. Any residential home or new addition, located on a slope greater than 3%, shall comply with soil erosion and sedimentation control and require silt fencing where deemed necessary to stop flow to neighboring property.

14.3 EXEMPT ACTIVITIES

The following activities are exempt from permit requirements:

- A. Activities not meeting the criteria in Section 14.2 herein
- B. Outside of the Floodplain, excavations for the basement and footings of single family houses on a single lot and swimming pools attendant to single family homes on a single lot; not excepting, however, those excavations that are part of an activity required to obtain permits under Section 15.2 or which exceed the limits for excavation as identified in 15.2
- C. Household gardening and activities related to the maintenance of landscape features on existing developed lots, excepting such activities as are required to obtain permits under Section 15.2
- E. Governmental activities to the extent such activities are exempted by law.

ARTICLE XV

GENERAL ADMINISTRATION AND ENFORCEMENT

15.0 ADMINISTRATION

This Law shall be administered and enforced by the Code Enforcement Officer who shall be responsible for issuing required permits, making necessary inspections and issuing violation orders if such exist.

15.1 GENERAL PROCEDURES:

A. Prior to any new construction, structural alteration, demolition or changes in the use of a building or lot, or demolition of a structure, a building permit or zoning permit must be obtained from the Code Enforcement Officer. In the event that the application does not meet the requirements of this local law, the Code Enforcement Officer will then refuse to issue a building permit and refer the application to the ZBA as is required by this local law and/or state law. Upon receipt of a permit, the applicant may proceed to undertake the action permitted by the permit. At the time the applicant has completed the construction, alteration, demolition, or changed the use as is permitted in the permit, the Code Enforcement Officer shall inspect the premises to determine if the requirements of the Law and permit have been adhered to. If such is the case, the Code Enforcement Officer shall issue the Certificate of Occupancy/Certificate of Compliance.

B. The following regulations will apply to all Districts:

1. Any change of use in new or existing structures and/or vacant land shall require Planning Board approval.
2. If the change of use is not an allowed use in the district where the request is located, a variance will be required from the ZBA.

15.2 TYPES OF PERMITS

- A. PERMITTED USE:** A building permit for a permitted use or structure, may be issued by the Code Enforcement Officer, on his own authority, if the application meets the requirements of Law.
- B. SPECIAL USES:** After a review, public hearing and approval by the Planning Board, a Special Use Permit may be issued by the Code Enforcement Officer.
- C. PERMIT AFTER AN APPEAL OR VARIANCE:** After a public hearing held by the Zoning Board of Appeals, a building permit may be issued by the Code Enforcement Officer upon the order of the ZBA.
- D. TEMPORARY SIGN PERMITS:** May be issued by the Code Enforcement Officer consistent with Article XII.

15.3 PERMIT REGULATIONS:

A. Under the terms of this Law, the following persons may apply for variances and special use permits:

1. Current owner of the property shall provide a copy of their deed.
2. Renter or lessee of the property:
 - a. One (1) copy of the rental agreement shall be submitted with the application.
 - b. The rental agreement or statement shall clearly show the tenant has written permission from the landlord.
3. Protective purchaser:

One copy of the purchase offer, clearly showing that a zoning contingency is part of the offer, shall be submitted with the application.

B. BUILDING PERMITS

1. There shall be submitted with all applications for a building permit, Three copies of a instrument survey map and a copy of the property deed at the Code enforcement Officer's discretion. Also needed will be a site plan showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and all accessory buildings to be erected and such other information as may be required to determine and provide for the enforcement of this Law. The CEO at his discretion, can require blue prints with an engineer or architects seal.
2. All water supply and sewage disposal installations shall meet the standard of the appropriate health authorities. All water distribution systems, using the Village of Rushville water supply shall meet the standards of the Department of Public Works of the Village of Rushville.
3. Three copies of a site plan required one copy of such layout or site plan shall be returned to the applicant together with the building permit, upon payment of the required fee and appropriate approvals. The other 2 copies of the site plan shall become public record after a permit is issued or denied and kept on file at the Village Clerk's Office. The applicant's permit shall be conspicuously posted on the premises for which said permit was issued, while construction, alteration or change of use is taking place.
4. A building permit shall expire 6 months after date of issuance if the applicant fails to implement his application as filed with the Code Enforcement Officer.
5. The Code Enforcement Officer may revoke the building permit if the work being done materially differs from the filed application.

C. DENIAL OF PERMITS

When the Code Enforcement Officer reviews an applicant's request for a permit and determines that the application does not meet the requirements of the Law, he shall refuse to issue the permit and the applicant may appeal to the ZBA

D. SPECIAL USE PERMITS

1. A Special Use Permit shall expire one year after issuance of the permit, unless work has been initiated as directed by the special use permit.
2. Special Use Permits are issued to the property owner of record.

E. CERTIFICATE OF OCCUPANCY

No land or structure shall be used or occupied until a Certificate of Occupancy has been issued by the Code Enforcement Officer. A Certificate of Occupancy/Certificate of Compliance shall be obtained by the property owner, from the Code Enforcement Officer, within 10 days after construction, alteration, or change of use is completed and complies with the local law and NYS Building Codes.

15.4 APPEALS PROCEDURE

A. APPLICANT

Any aggrieved person may appeal to the ZBA within 30 days from any ruling of any administrative official administering any portion of this law.

B. CODE ENFORCEMENT OFFICER

Any person who desires to appeal the CEO's decision may make an appeal to the ZBA within 30 days of the CEO's decision. After the 30 day time period has lapsed and the aggrieved person has not appealed the CEO decision, the CEO's decision shall stand.

C. THE ZONING BOARD OF APPEALS

1. The ZBA shall give notice of said public hearing through proper publication in the official newspaper of the Village at least 5 days prior to the hearing, and shall give written notice by Certified Mail, return receipt requested, mailed at least 5 days prior to the hearing to the applicant and all other property owners of adjoining parcels and other within a 200 foot linear distance of the property as measured along the street(s) on which the property abuts.
2. The ZBA shall decide each appeal at a public meeting within sixty-two (62) days after the final hearing. The decision of the Board shall be immediately filed in the Office of the Village Clerk and shall be public record. Also, the applicant and the Code Enforcement Officer shall be notified of the action of the ZBA. In the performance of it's duties upon such appeals or upon special uses, the Board may, in conformity with the provisions of the Law, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination in accordance with the provisions hereof.

15.5 APPEAL FROM DECISION OF THE BOARD OF APPEALS

Any person aggrieved by the decision of the Zoning Board of Appeals may bring Article 78 proceeding against the ZBA as is provided by Law.

15.6 FEE SCHEDULE

Fees shall be established from time to time by Resolution of the Village Board of Trustees, which upon adoption shall be filed with the Village Clerk.

15.7 PENALTIES FOR OFFENSES.

Any person, firm, company, corporation, partnership, limited liability company or other entity owning, controlling, occupying or managing any building, structure or premises therein or wherein there shall be placed on, allowed to remain or there exists anything in violation of this chapter, and any such person, firm, company, corporation, partnership, limited liability company or other entity who or which shall assist in the commission of any such violation or violation of any condition imposed by the Village Board, Zoning Board of Appeals or Planning Board or who or which shall use or building any building or parcel of land contrary to the provision of this chapter, and any such person, firm, company, corporation, partnership limited liability company or other entity who or which shall omit, neglect or refuse to do any act required by this chapter shall be guilty of an offense and subject to a minimum fine of \$250.00 (Two Hundred Fifty dollars) or imprisonment for a period of not more than 15 days, or both, and in addition may be ordered to pay all cost and expenses, including fees and expenses of attorneys, engineers and other experts involved in the enforcement hereof. Every such person, firm, company, corporation, partnership, limited liability company or other entity shall be deemed guilty of a separate offense for each week such violation, per each violation disobedience, omission, neglect or refusal shall continue.

ARTICLE XVI

ZONING BOARD OF APPEALS

16.0 ORGANIZATION OF THE ZBA

A. Creation and Membership

There is hereby established a Zoning Board of Appeals having the powers authorized under the Consolidated Laws of the State of New York. Said Board shall consist of three (3) members. An appointment to a vacancy occurring prior to expiration of term shall be for the remainder of the unexpired term. A maximum of 2 alternates may be appointed.

B. Appointment of Officers, Meetings

The Village Board shall appoint a chairman. The Zoning Board of Appeals shall adopt rules and regulations consistent with law or ordinance. Meetings of the ZBA shall be held at the call of the chairman and at such other times as the ZBA may determine. The chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

C. Schedule a Public Hearing

After receiving an appeal from an aggrieved person, the ZBA shall schedule a public hearing on the appeal application, or any other matter referred to the Board within 62 days of a completed application.

D. Hearings Open to the Public

The Board shall give notice of said public hearing through proper publication in the official newspaper of the Village at least 5 days prior to the hearing, and shall give written notice by regular mail, mailed at least 5 days prior to the hearing to the applicant and all other property owners of adjoining parcels and other within a 200 foot radius.

E. Quorum, Voting

The presence of three (2) members shall constitute a quorum. The ZBA shall act by resolution. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse any order, requirement or decision or determination of the Code Enforcement Officer or the Planning Board.

F. SEQRA ENVIRONMENTAL REVIEW

A SEQRA form shall be used when required and/or An Environmental Assessment Form (EAF) pursuant to the State Environmental Quality Review Act when required as codified in the Environmental Conservation Law of the State of New York. The applicant shall submit said EAF with Section 1 filled out, signed and dated, accompanied by any supporting documentation or materials as may be required. Also an Environmental Impact Statement (EIS) may be requested when needed.

16.1 SPECIFIC POWERS AND DUTIES OF THE ZBA

- A. INTERPRETATION OF LAW AND BOUNDARIES** Upon an appeal from the decision of the Code Enforcement Officer, the Board shall decide any question involving the interpretation of any provision of this Law. Where uncertainty exists as to the boundaries of any Zoning District, the Board shall, upon written application, determine the location of such boundaries of such districts as are established by this Law and as designated on the Zoning Map of the Village.
- B. VARIANCES** Upon an appeal from the decision of the Code Enforcement Officer, the Board shall decide any question that would involve a variance from the regulation or conditions of this Law.
1. **Area Variance** shall mean the authorization by the ZBA for use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
 2. **Use Variance** shall mean the authorization by the ZBA for the use of land in a manner or for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.
- E.** The ZBA shall hold a public hearing within sixty (62) days after the completed application has been filed. The ZBA shall make a decision 62 Days after the public hearing has been closed. The decision of the ZBA shall be immediately filed in the Office of the Village Clerk and shall be public record. Also, the applicant and the Code Enforcement Officer shall be notified of the action of the ZBA. In the performance of its duties upon such appeals the ZBA may, in conformity with the provisions of the law, 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 accordance with the provisions hereof.

16.2 GUIDING PRINCIPLES AND STANDARDS FOR VARIANCES

- A. Area Variances:** In making its determination for an area variance, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health and safety of the neighborhood or community by such grant. In making such determination, the ZBA shall also consider:
1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.
 2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 3. Whether the requested area variance is substantial.
 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

6. The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
7. The ZBA shall, in granting of an area variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

B. FOR USE VARIANCE

In making its determination for a use variance, the Board shall take into consideration whether or not the applicant has met the following four (4) tests. To meet one (1) or two (2) is not sufficient the applicant is required to meet all (4) of the tests.

1. No such use variance shall be granted by a zoning board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship in order to prove such unnecessary hardship the applicant shall demonstrate to the zoning board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located.
 - a. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - b. that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
 - c. that the requested use variance, if granted, will not alter the essential character of the neighborhood.
 - d. that the alleged hardship has not been self-created.
 2. The Zoning Board of Appeals, in granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
 3. The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, or the period of time such variance shall be in affect. Such conditions shall be consistent with the spirit and intent of the zoning law.
- C. This section is taken directly from NYS Village Law and as such is subject too any updated amendments.

ARTICLE XVII

PLANNING BOARD

17.0 ORGANIZATION AND DUTIES

A. Creation and Membership

Pursuant to the provisions of the Consolidated Laws of the state of New York, a Planning Board consisting of five (5) members is hereby established. Such Board shall perform all the duties and have all the powers as herein described or as are authorized by Village Law.

Vacancies: should a member be unable to complete a term of office, for any reason, the VBT shall appoint a new person to finish the term.

B. Annual Meeting, Regular Meetings, Special Meetings

The Annual meeting of the Planning Board shall be devoted to the election of officers and other such business as scheduled by the VPB.

Regular Meeting As Needed of the Planning Board shall be held at 7:00PM on the forth Thursday of each month in the Village Hall. In the absence of the Chairman, the Vice Chairman shall preside on every matter properly brought to the attention of the Planning Board.

Special Meetings shall be held at a time and place designated by the Chairman or the Vice Chairman in the absence of the Chairman. Verbal or written notice shall be given to all members not less than seven days in advance thereof.

C. Meeting Procedures

Every Planning Board meeting shall proceed as follows:

1. Call Meeting to order
2. Attendance
3. Motion to approve minutes
4. Acknowledge public comments for the record
5. Correspondence
6. New Business
7. Old Business
8. Adjournment

D. Quorum, Voting

A quorum shall consist of three out of five members for the purpose of voting on matters within the jurisdiction of the Planning Board. No action shall be taken in the absence of a quorum.

Voting shall be done by voice with each member attending entitled to cast one vote. In the event that any member present has a personal interest of any kind in the matter being voted on, they shall recuse themselves from voting on that matter and the secretary shall so record said action in the minutes. A majority vote of the Board shall be necessary for the adoption of any proposed action, recommendation, or other voting matter.

E. Chairman and their Duties

The officers of the Planning Board shall consist of the Chairman and the Vice Chairman, both elected at the annual meeting, approved by the Village Board of Trustees, each of whom shall serve a one year term.

Chairman:

1. shall preside at all VPB meetings.
2. shall call Special Meetings.
3. shall sign all official documents, except minutes.
4. shall see that all reports, documents and actions of the VPB are properly made, executed or filed in accordance with the Village or State zoning laws.

Vice Chairman:

During the absence of the Chairman, the Vice Chairman shall exercise and perform all the duties and responsibilities of the Chairman.

F. Public Hearings

The VPB shall give notice of said Public Hearing through proper publication in the official newspaper of the Village at least five days prior to the date of the hearing. The applicant shall receive written notice five days prior to the hearing

G. Recommendations to the Village Board of Trustees

Prior to making recommendations to the Village Board of Trustees regarding amendments to the Zoning Law, the Planning Board shall send these recommendations to the Ontario/Yates County Planning Board (OCPB) for review. The OCPB shall return their input to the VPB with acceptance with modifications, or denial. The OCPB's input will be taken into consideration for the review process.

H. VBT referrals to the Village Planning Board

Should the VBT receive a request for any Zoning Law or District change, which they wish to consider, they shall refer the request to the VPB for review.

I. Authority and Duties of the VPB

The VPB has the authority to approve or deny the following:

1. Subdivision Applications
2. Site Plan Applications
3. Special Use Permit Applications
4. Review of New Businesses

J. Village Planning Board Recommendations

The Village Planning Board is hereby empowered to make recommendations regarding the following.

1. Zoning Code Changes and amendments
2. Zoning District Changes
3. Subdivision changes
4. Comprehensive Plan review and changes

K. Official Signature

The signature of the Planning Board Chairman or Acting Chairman shall be required upon all official documents.

17.1 PROCEDURES FOR SUBMITTING AN APPLICATION FOR SITE PLAN REVIEW

A. SITE PLAN APPROVAL SHALL BE NEEDED PRIOR TO:

1. The issuance of a Zoning permit for any use.
2. A change of occupancy and/or use of premises including all permitted principal uses in all districts (but not to include single family dwellings in R-1 districts).
3. The issuance of building permits for new construction of vacant land.
4. Additions to all existing buildings (but not to include single family dwellings in R-1 districts).

The Code Enforcement Officer shall refer such Site Plan Applications to the Planning Board for review. No Zoning or Building permits, as stated above, will be issued until the Planning Board has given Site Plan approval.

17.2 PROCEDURES AND STANDARDS FOR SITE PLAN REVIEW

A. Applications for site plan approval shall be made in writing to and on forms provided by the Code Enforcement Officer. All site plans shall be prepared by a NYS licensed engineer, architect, landscape architect or surveyor and shall contain the following information:

1. Map of applicants entire holding drawn to scale, with north arrow.
2. Title of drawing, including name and address of applicant and person responsible for preparing of such drawing.
3. Where grades exceed 3 percent, a topographical map.
4. Grading, drainage and storm water management plans, showing water-courses and existing and proposed contours
5. Location, proposed use and height of all buildings.
6. Location, design and construction materials of all parking and truck loading areas, showing access and egress.
7. Provision for pedestrian access.
8. Location for outdoor storage, if any.
9. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
10. Description of the method of sewage disposal and location, design and construction materials of such facilities.
11. Location, size and design and construction materials of all proposed signs.

12. Location and proposed development of all buffer areas including existing vegetative cover.
 13. Location and design of outdoor lighting facilities.
 14. General landscaping plan and planting schedule.
 15. Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution, and SEQR documents.
- B. In its review, the Planning Board may consult with the Code Enforcement Officer, Fire Chief, Village Attorney or Engineer, County Planning Board, other local and county officials, as well as with representatives of Federal and State agencies.
 - C. The Planning Board's decision on the site plan shall be filed in the Office of the Village Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.
 - D. Upon approval of the site plan, the Planning Board shall direct the Planning Board Chairman to endorse an official copy of the site plan, provided that all required modifications have been made to the site plan, as well as evidence of necessary permits from all other agencies have been obtained. The Code Enforcement Officer shall then be directed to issue the necessary zoning permits.
 - E. No occupancy permits or certificates of compliance shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Village Planning Board. The sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Code Enforcement Officer, Village Attorney or Engineer, or other local officials prior to recommendation to the Village Planning Board.
 - F. No filling of lands, grading, removal of vegetation, or excavation for construction of site improvements shall begin until the applicant has received final site plan approval and the site plan has been signed.
 - G. In addition to the site plan application fee established by the Village Board, costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a site plan shall be charged and agreed to by the applicant prior to granting of site plan approval.
 - H. Site plan approval will automatically terminate one year after the same is granted unless significant work has been done on the project.
 - I. Where it is deemed appropriate, the Village Planning Board may waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Such waiver may be exercised by the Planning Board in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

- J. The Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met prior to the issuance of zoning permits or building permits by the Code Enforcement Officer.

17.3 SPECIAL USE PERMITS

A. **Authority for Review:** The Planning Board of the Village of Rushville is authorized and empowered to review and approve, approve with conditions, or deny applications for Special Use Permits pursuant to the Zoning Ordinance and Zoning Local Laws of the Village of Rushville.

B. **Application:** Application for a Special Use Permit pursuant to the Zoning Ordinance of the Village of Rushville shall be made in writing to the Village of Rushville Code Enforcement Officer on forms provided by said Code Enforcement Officer. Said application shall be accompanied by 8 copies (or 9 if referral to the Ontario/Yates County Planning Board is required pursuant to the General Municipal Law Section 239 of the State of New York) of all materials required herein and specified as follows:

1. A plan prepared and stamped by an Engineer, Surveyor, or Landscape Architect licensed to practice in and by the State of New York showing property boundaries including bearings and distances, and the location of all existing buildings, structures, woods, water courses, easements, roads, driveways, parking areas, and utilities.
2. A sketch plan, conforming to the requirements of this ordinance, showing all changes proposed to the property to accommodate the special use. Said plan shall outline the extend of grading proposed, and any wooded areas or trees which shall be required to be destroyed during construction.
3. An Environmental Assessment Form (EAF) pursuant to the state Environmental Quality Review Act as codified in the Environmental Conservation Law of the State of New York. The applicant shall submit said EAF with Section 1 filled out, signed and dated, accompanied by any supporting documentation or materials as may be required.
4. An analysis of the traffic generating capacity of the proposed use.
5. An analysis of the impact of the special use on adjacent properties, including but not limited to noise, traffic, aesthetics, property values, scenic views, and historic properties or resources.

C. **Referral to Planning Board and Notification of Property Owners**

1. Each application for a special use permit including all supporting materials as required herein, shall be referred to the Planning Board by the Code Enforcement Officer at least ten (10) days prior to the regular monthly meeting of the Planning Board.

2. The Village shall notify, by certified mail, all owners of property located within 500 feet of the property being the subject of the Special Use Permit Application. The cost of such notification shall be paid by the applicant.
3. The Code Enforcement Officer shall issue no permits concerning the property being the subject of the Special Use Permit Application until final action on the Special Use Permit has been taken by the Planning Board.

D. Public Hearing and Final Report

1. The Planning Board shall hold a public hearing on the requested special use permit within sixty-two (62) days after the receipt or referral of the application by the Planning Board. Date of receipt shall be considered the first monthly meeting of the Planning Board following submissions of the application. The notice of public hearing shall be made in accordance with the Village Law of the State of New York.
2. Within sixty-two (62) days after the date of the hearing, the Planning Board shall approve with or without modifications or deny the special use permit. This time may be extended upon mutual consent of the Planning Board and the applicant.
3. The Planning Board shall by resolution and in writing state any changes or modifications in the submitted plans necessary for approval of a special use permit.
4. A site plan review shall be required of all special uses. The applicant may choose to submit materials required for a site plan review either simultaneous with the application for a special use permit, or after approval with or without conditions has been received from the Planning Board.

E. Existing Violations: The Planning Board may require the termination of an existing violation of this ordinance before approving special use permit application.

F. Expiration: A special use permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than one year for any reason.

G. General Conditions and Standards for all Special Uses

1. That the use will not be detrimental in any way to the health, safety, and welfare of the residents of the Village of Rushville.
2. That the proposed use will be in harmony with the existing development of the neighborhood in which premises are situated.
3. That the proposed use will not be detrimental to residents of the neighborhood in which the use is situated or cause a substantial decrease in the value of surrounding properties.
4. That the proposed use will not cause an undue increase in the village population or result in an undue concentration of residents in any one area.

5. That the proposed use will not create any substantial increase in traffic volume and shall be located on or have direct access to, public highways of sufficient size, volume and construction to accommodate safely and adequately without congestion, any projected traffic the use may generate, along with the actual and projected traffic for the area.
6. That the orderly development of the village will be insured and any proposed use shall not cause an increase in village residents or an influx of persons beyond that which can be adequately accommodated by schools, highways and other governmental facilities and services, giving due consideration to the general projected increase of village residents.
7. That the proposed use and its facilities and appurtenances will in no way, directly or indirectly, materially alter the ecology or increase the eutrophication, or in any other manner contribute to the degrading and deterioration of the quality of water of Canandaigua Lake and surrounding streams.

H. Specific Conditions for all Special Uses

1. Adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways, off-street parking and loading space, and facilities for waste disposal shall be provided.
2. Arrangement of buildings and vehicular circulation open spaces so that pedestrians moving between buildings are not unnecessarily exposed to vehicular traffic shall be provided.
3. Adequate illumination for all these areas shall be provided.
4. Adequate design of grades, paving, drainage and treatment of turf to handle storm water, prevent erosion and formation of dust shall be provided.
5. Signs and lighting devices must be arranged with respect to traffic control devices and residential districts.
6. Outdoor lighting shall not be erected on structures in excess of 35 feet above the ground level, shall only be focused upon the premises which it is intended to serve, and shall be so shaded that the direct light beams from the light source shall not glare on neighboring properties.
7. For any industrial, commercial, or recreational use which by its nature may be deemed to generate substantial noise, whether by mechanical or musical devices or by public participation or any other cause, the Planning Board may require such additional setbacks from property lines and other arrangements as it may deem necessary to insure that said noise will not be detrimental or annoying to neighboring properties.

8. In business or industrial development groups within one hundred feet (100') of residential districts, fences, walls, or year-round screening planting when necessary to shield adjacent residential districts shall be provided.
9. An official septic system inspection by the Village Code Enforcement Officer for the proper size and working order shall be required for any residential conversion from a single family dwelling to a two family dwelling.

I. Waiver for the Special Use Permit

Where it is deemed appropriate, the Village Planning Board may waive any specific requirements of a particular Special Use Permit Condition, for the approval, approval with conditions and/or modifications or disapproval of a Special Use Permit application submitted for review. Said waiver may be exercised by the Planning Board in the event any requirements are found not to be requisite in the interest of the health, safety and welfare of the general public or is inappropriate to a particular Special Use Permit.

ARTICLE XVIII

AMENDMENTS

18.0 VILLAGE BOARD MAY AMEND

The Village Board may, from time to time, on its own motion, or on petition, or on recommendation of the Planning Board, amend supplement or repeal the regulations and provisions of the Law after public notice and hearings as provided by the Consolidated Laws of New York State.

18.1 REVIEW BY PLANNING BOARD

Every such proposed amendment or change whether initiated by the Village Board or by petition, shall be referred to the Planning Board for report thereon before the public hearing hereinafter provided for.

18.2 PUBLIC NOTICE AND HEARING

The Village Board by resolution adopted at a stated meeting shall fix the time and place of a public hearing on the proposed amendments, and shall cause notice to be given as follows:

18.3 PUBLIC NOTICE

By publishing a notice at least five (5) days in advance of such hearing in the official Village newspaper of the Village of Rushville, such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined. In the event of any amendment to this local law which results in an amendment to the Village's Official Zoning Map, the owner of any parcel affected by such amendment and all persons who own property within two hundred feet of such affected parcel, shall be notified by the Village Clerk of the date, time and place of the public hearing by certified mail return receipt requested.

ARTICLE XIX

REFERRAL TO COUNTY PLANNING BOARD

19.0 REFERRAL PROCEDURES

- A.** Any action by the Planning Board or Zoning Board subject to county review shall be submitted within thirty(30)days from the date of a completed application to County Planning.
- B.** The County Planning Board shall have thirty(30)days after receipt of this application to make their comments or recommendations.
- C.** The submitting municipality in making their decision shall consider the recommendations of the County Planning Board and shall not act contrary to the recommendations of the County Planning Board except by a majority plus one vote of the Board having jurisdiction over the referral.
- D.** If the submitting municipality does override the County Planning Board, the submitting municipality must notify the County Planning Board within thirty(30)days as to their decision by Board resolution, and must notify the County Planning Board as to why their recommendations were overridden.

ARTICLE XX

INTERPRETATION

20.0 INTERPRETATION, CONFLICT WITH OTHER LAWS

In their interpretation and application, the provisions of this Law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, or the general welfare. It is not intended to interfere or abrogate or annul other rules, regulations or ordinances, provided that whenever the requirements of this law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards shall govern.

20.1 VALIDITY

Should any section, subsection, sentence, clause, phrase or provision of this Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

20.2 EFFECTIVE DATE

This Law shall take effect immediately upon the adoption, publication, and posting as provided by the Consolidated Laws of the State of New York.

20.3 PERIODIC REVIEW

This local law is subject to periodic review every five years by the Planning Board. This review shall be started at least six (6) months just prior to the end of the five year date.

ARTICLE XXI

ZONING DISTRICT/MAP

21.0 GENERAL INFORMATION

The Village of Rushville now has in effect a system of parcel based zoning. The following descriptions are compiled from the map entitled "Village of Rushville Zoning" dated JULY 11, 2011, and the Village of Rushville Tax Map, County of Ontario/Yates, State of New York, dated March 1, 2001.

21.1 R - 1 DISTRICT

The residential R-1 District shall be comprised of the parcels with the following tax map parcel Identification Numbers:

3.35-1-4	3.36-1-52	3.44-1-30
3.35-1-5	3.36-1-53	3.44-1-31
3.35-1-8	3.36-1-54	3.44-1-32
3.35-1-9	3.36-1-55	3.44-1-33
3.35-1-10	3.36-1-56	3.44-1-34
3.35-1-11	3.36-1-57	3.44-1-35
3.35-1-12	3.36-1-58	3.44-1-36
3.35-1-13	3.36-1-69	3.44-1-37
3.35-1-15	3.36-1-70	3.44-1-38
3.35-1-16	3.36-1-72	3.44-1-39
3.35-1-17	3.43-1-1.1	3.44-1-48
3.35-1-18	3.43-1-2	3.44-1-49
3.35-1-19	3.43-1-3	3.52-1-1
3.35-1-20	3.43-1-4.1	3.52-1-2
3.35-1-21.1	3.43-1-5	3.52-1-3
3.36-1-1	3.43-1-6	3.52-1-4
3.36-1-2	3.44-1-1	3.52-1-5
3.36-1-3	3.44-1-2	3.52-1-6
3.36-1-4	3.44-1-3	3.52-1-7
3.36-1-5	3.44-1-4	3.52-1-9
3.36-1-6	3.44-1-5	3.52-1-10
3.36-1-7	3.44-1-6	3.60-1-1
3.36-1-8	3.44-1-7	3.60-1-2
3.36-1-10	3.44-1-8	3.60-1-3
3.36-1-15	3.44-1-9	3.60-1-4
3.36-1-16	3.44-1-12	3.60-1-5
3.36-1-18	3.44-1-13	3.60-1-6
3.36-1-19	3.44-1-14	4.29-1-1
3.36-1-20	3.44-1-15	4.29-1-2
3.36-1-21	3.44-1-16	4.29-1-3
3.36-1-22	3.44-1-17	4.29-1-4
3.36-1-23	3.44-1-18	4.29-1-5
3.36-1-24	3.44-1-19	4.29-1-6
3.36-1-25	3.44-1-20	4.29-1-7
3.36-1-26	3.44-1-21	4.29-1-27
3.36-1-30	3.44-1-22	4.37-1-2
3.36-1-31	3.44-1-24	4.37-1-3
3.36-1-32	3.44-1-25	4.37-1-4
3.36-1-33	3.44-1-26	4.37-1-5
3.36-1-45	3.44-1-27	4.37-1-6
3.36-1-50	3.44-1-28	4.37-1-7
3.36-1-51	3.44-1-29	4.37-1-9
4.37-1-10	156.17-1-7.000	156.18-1-18.000

4.37-1-11	156.17-1-8.000	171.05-1-4.000
4.37-1-12	156.17-1-9.100	171.05-1-7.000
4.37-1-14	156.17-1-11.100	171.05-1-8.000
4.37-1-15	156.17-1-12.100	171.05-1-9.000
4.37-1-16	156.17-1-14.100	171.05-1-10.000
4.37-1-17	156.17-1-15.000	171.05-1-11.000
4.37-1-18	156.17-1-16.000	171.05-1-12.000
4.37-1-19	156.17-1-17.000	171.05-1-13.000
4.37-1-20	156.17-1-18.000	171.05-1-14.000
4.37-1-21	156.17-1-19.000	171.05-1-15.000
4.37-1-22	156.17-1-20.000	171.05-1-17.000
4.37-1-23	156.17-1-21.000	171.05-1-18.000
4.37-1-25	156.17-1-22.000	171.05-1-20.000
4.37-1-26	156.17-1-23.000	171.05-1-21.000
4.37-1-27	156.17-1-24.100	171.05-1-22.000
4.37-1-28	156.17-1-26.100	171.06-1-1.110
4.37-1-29	156.17-1-27.000	171.06-1-1.120
4.37-1-30	156.17-1-28.000	171.06-1-1.200
4.45-1-1	156.17-1-29.000	171.06-1-2.000
4.45-1-2	156.17-1-30.000	171.06-1-3.000
4.45-1-3	156.17-1-99.110	171.06-1-5.000
4.45-1-4	156.18-1-2.112	171.06-1-6.000
4.45-1-5	156.18-1-2.200	171.06-1-7.000
4.45-1-6	156.18-1-3.000	171.06-1-8.000
4.45-1-7	156.18-1-4.000	171.06-1-9.000
4.45-1-10	156.18-1-5.000	171.06-1-10.000
4.45-1-12	156.18-1-6.000	171.06-1-11.000
4.45-1-13	156.18-1-7.000	171.06-1-12.000
4.45-1-14	156.18-1-8.100	171.06-1-13.000
4.45-1-24	156.18-1-9.000	171.06-1-14.000
4.53-1-1.1	156.18-1-10.000	171.06-1-15.100
4.53-1-1.2	156.18-1-11.000	171.06-1-15.200
4.53-1-2	156.18-1-12.000	171.06-1-16.000
4.53-1-3	156.18-1-13.000	171.06-1-17.000
4.53-1-4	156.18-1-14.100	171.06-1-18.000
4.53-1-5	156.18-1-15.100	171.06-1-19.000
4.53-1-6	156.18-1-16.000	171.06-1-20.000
4.53-1-7	156.18-1-17.000	171.06-1-21.000
4.53-1-8	156.18-1-17.001	171.06-1-22.000
4.61-1-1	156.18-1-17.002	171.06-1-23.110
156.17-1-1.121	156.18-1-17.003	171.06-1-23.220
156.17-1-3.000	156.18-1-17.004	171.06-1-23.230
156.17-1-4.000	156.18-1-17.005	171.06-1-24.000
156.17-1-5.000	156.18-1-17.006	
156.17-1-6.000	156.18-1-17.009	

21.2 M - D DISTRICT

The M-D District shall be comprised of the parcels with the following tax map parcel Identification Numbers:

4.45-1-8	4.45-1-9	171.06-1-23.121
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21.3 C - 1 DISTRICT

The C-1 Commercial District shall be comprised of the parcels with the following Tax Map Parcel Identification Numbers:

3.36-1-12.1	3.36-1-36	3.36-1-44
3.36-1-13	3.36-1-37	3.36-1-60
3.36-1-14	3.36-1-38	3.36-1-64
3.36-1-28	3.36-1-39	3.36-1-65
3.36-1-29	3.36-1-40	3.36-1-66
3.36-1-34	3.36-1-41	3.36-1-67
3.36-1-35	3.36-1-43	3.36-1-68

21.4 C - 2 DISTRICT

The C-2 Commercial Districts shall be comprised of the parcels with the following Tax Map Parcel Identification Numbers:

3.35-1-1	156.17-1-1.200	171.05-1-23.100
3.35-1-2	171.05-1-1.000	171.05-1-23.211
3.35-1-3	171.05-1-2.000	171.05-1.23.221
3.35-1-6	171.05-1-6.110	171.05-1.25.000
3.35-1-7		

ARTICLE XXII

PROPERTY NUISANCE ABATEMENT LAW

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PROPERTY NUISANCE ABATEMENT LAW

Section 1. Title:

This chapter shall be known as the Property Nuisance Abatement Law of the Village of Rushville.

Section 2. Purpose:

Dangerous and unsafe buildings, structures, and premises that threaten life and property in the Village of Rushville and constitute a nuisances, Premises, whether occupied or unoccupied by human design or construction, failure to maintain the structural integrity of the building, lack of proper sanitary facilities, lack of adequate lighting or ventilation, inability to heat properly, failure to keep property free from the accumulation of garbage and refuse, fire damage, age or general deterioration, violation of state or local codes, laws, rules, or regulations, or any combination of these or other factors that create a hazard to the community. This law provides for the safety, health, protection and general welfare of the persons and property of and in the Village of Rushville by requiring that such unsafe premises be repaired, cured, cleared, cleaned, vacated, or demolished.

Section 3. Declaration as public nuisance:

All unsafe premises within the terms of this law are hereby declared to be public nuisances and shall be repaired, cured, cleaned, vacated or demolished as hereinafter provided.

Section 4. Definitions:

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING Any building, structure or portion thereof used for any or no purpose, whether vacant or occupied, including residential, business, agricultural, land conservation, or industrial purposes.

BUILDING INSPECTOR The Building Inspector of the Village of Rushville or such other persons appointed by the Village Board to enforce the provisions of this law.

GARBAGE Any refuse from animal and vegetable matter, waste food or parts thereof, refuse from kitchen, market, store or house, floor sweepings, table waste or animal or vegetable matter, meats, fish, bones, fat and all of fat and organic waste substance or food substance capable of decay.

REFUSE Plastics, combustible trash (that has not been packaged or is not part of a business operation), including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding. Also included in noncombustible trash, including but not limited to tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures and street rubbish, street sweepings, dirt, ashes, dead animals, junked vehicles, solid market and industrial waste, cardboard, leaves, crockery and similar materials.

STRUCTURAL INTEGRITY Any condition that threatens the safety of occupants, owners, general public such as but not limited to: Sheathing falling off the side of a building, roofs that are falling in/large holes of 4 square feet or larger, walls that are separating away from the building, buildings that are leaning at an angle, buildings that have partially or completely collapsed, sagging support beams, floors that are falling in are weak and or have holes, porch roofs dropping or pulling away from the building, chimneys that are leaning falling apart bricks that are missing and leave holes, steps that are rotted or coming

apart, decks that are leaning or rotted and falling down or coming apart.

THE VILLAGE The Village of Rushville

THE VILLAGE BOARD The Village Board of Trustees.

UNSAFE PREMISES Real property and/or any improvements, buildings, structures, equipment thereon or installations therein, including electrical, gas water, sewer, or septic service, whether above or below ground surface, that are the property owners responsibility and that have become so dilapidated, decayed, unsafe, unsanitary, a fire hazard or are likely to cause injury, sickness or disease and, therefore, are a danger to the health, safety or general welfare of those residing in or upon the property or adjacent to same or to the citizens of the Village of Rushville at large. "Unsafe Premises" are further defined as properties that, because of their condition, are otherwise unsafe, unsanitary or dangerous to the people of the Village of Rushville. "Unsafe Properties" shall also be those properties that are in Violation of the New York State Uniform Fire Prevention and Building Code, the New York State Public Health Law, the New York State Sanitary Code, and such violations of the Zoning Law of the Village of Rushville, Local Board of Health and other local law and ordinances declared to be public nuisances by the Village of Rushville by resolution. "Unsafe Premises" may include the whole or any portion of any real property described in a deed recorded in the Office of the Ontario/Yates County Clerk or on the tax rolls and tax map of the Village of Rushville, Ontario/Yates County. "Unsafe Premises" may be improved or unimproved real property, containing buildings and/or consisting of vacant land.

UNSAFE PROPERTIES See unsafe premises shall be considered the same.

Section 5. Duties of the Building Inspector.

When in the Building Inspector's opinion or upon receipt of information that any property is or may become unsafe premises within the meaning of this law, the Building Inspector shall be authorized to condemn said premises or buildings and to have them vacated immediately if necessary. The Building Inspector shall also be authorized to order its repair, if the same can be safely repaired, it's securing for safety purposes and/or it's demolished and removal. For any necessary stronger enforcement the Building Inspector shall make a report in writing to the Village Board of his findings and recommendations in regards to its being vacated, repaired, secured for safety purposes or demolished and removed.

Section 6. village Board Order.

The Village Board shall thereafter consider such report and definitions of this law by resolution determine, if in their opinion and judgment, the report so warrants, that such building or premises is unsafe or dangerous and order its repair, if the same can be safely repaired, it's securing for the safety purposes and/or it's demolition and removal and further order that a notice be served upon the persons designated in section 8 of this law and in the manner provided

therein. The Village Board will authorize the Building Inspector to be in charge of the enforcement of the Village order.

Section 7. Contents of Notice.

This notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or property is unsafe or dangerous.
- C. A statement outlining the manner in which the building or property is to be made safe and secure or demolished and removed.
- D. An order that the repair, vacating, securing or removal of such building or condition (nuisance) shall commence within thirty (30) days of service of the notice and shall be completed within sixty (60) days thereafter, unless for good cause shown such time shall be extended.
- E. A date, time and place for a public hearing before the Village Board in relation to such dangerous or unsafe premises, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice. Emergency notices shall be displayed in the window at the Village Clerk's Office identifying the property and status of action being taken.
- F. A statement that, in the event of neglect or refusal to comply with the order to secure or demolish and remove or correct such condition (nuisance), the Village Board is authorized to provide for its repair, securing or its demolition and removal as the case may be, to assess all expenses thereof against the land on which it is located and/or institute a special proceeding to collect the cost of removal, demolition or repair, including legal and engineering expenses.

Section 8. Service of Notice.

The notice required under this law shall be served upon the owner, his executors, legal representatives, agent, lessee, or any other person having a vested or contingent interest in such unsafe premises or building, as shown by the records of the town assessor or of the Ontario/Yates County Clerk. Service shall be made either personally or by registered or certified mail, addresses to the last known address, if any, of the owner, his executors, legal representative, agent, lessee or other person having a vested or contingent interest in such unsafe premises or buildings as aforesaid identified. If service is made by registered or certified mail, a copy of the notice shall be posted on the premises.

Section 9. Filing the copy of notice.

A copy of the notice served as provided herein shall be filed in the office of the clerk of the County of Ontario/Yates and with the Village Clerk of the Village of Rushville.

Section 10. Conduct of Public Hearing.

- A. The public hearing shall be conducted before at least a quorum of the Village Board.
- B. The Mayor or his or her designee shall preside over the public hearing.
- C. The owner of the premises may be represented by counsel at the public hearing and shall have the right to call witnesses in his or her behalf and to otherwise present his or her case in opposition to the Village case.

- D. That the strict rules of evidence shall not apply to the public hearing. The Village must prove its case by a preponderance of the evidence.
- E. That after both parties have presented their respective cases, the Village Board shall decide the case. Such decision shall be in writing and shall be Filed with the Village Clerk and mailed to the property owner at his or her last known residence address within five (5) days of the date of the public hearing. The decision shall be made by simple majority of the Village Board.
- F. Failure of the property owner to appear either in person or by representative, at the date and time specified for a public hearing, shall not prevent the Village from rendering a decision.

Section 11. Failure to comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Village Board and after the hearing, the Village Board shall provide for the repair, vacating, securing or demolition and removal, as the case may be, of such building or property, either by Village employees or by contract. Except in emergency cases as provided for herein, any contract for repair, securing or demolition and removal, as the case may be, shall be awarded in accordance with the provisions of the General Municipal Law of the State of New York.

Section 12. Fines

That 30 days after the first certified notice by the Building Inspector to bring the property into compliance and the property has not been brought into compliance, the property owner or owners or agents shall be subject to fines in the amount of Two Hundred Fifty Dollars (250.00) per week until the property has been brought into compliance. That any unpaid fines within a 12 month period shall be levied on to the property taxes.

Section 13. Assessment of expenses.

All expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove the unsafe building or property including the cost of actually removing such building or correcting such condition or nuisance or repairing the same shall be levied and collected in the same manner as provided for in the Village Law for the levy and collection of Village taxes or special ad valorem levies.

Section 14. Emergency Cases.

Where it reasonably appears that there is present and clear and imminent danger to life, safety or health of any person or property, unless an unsafe building or condition or nuisance is immediately repaired and secured or demolished, the Village Board may, by resolution authorize the Building Inspector to order immediately the repair, vacating, securing or demolition of such unsafe building or correction of such condition (nuisance). The expenses of such repair,

vacating, securing or demolition or correction of such condition (nuisance) shall be charged against the land on which it is located and shall be assessed, levied and collected as provided for under section 11 of this chapter.

Section 15. Administrative liability; defense by the Village Attorney.

No officer, agent or employee of the Village shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer or employee of the Village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Village Attorney until the final determination of the proceedings thereon.

Section 16. Saving clause.

That any part of this law that shall be determined unconstitutional will not effect the rest of the law that shall remain in effect.

Section 17. This law is effective this ____ day of ____ year ____ . Local Law ____ was filed on _____.