



CITY OF RUSHFORD VILLAGE (CRV)
ZONING and LAND USE ORDINANCE
ORDINANCE NUMBER 5, Amended

Sections 100-2700, Add'l PH: 06-16-15, Amended 06-16-2015; Summary published 07-16-2015.
 Sections 100-2700, PH: 02-17-15, cont. 03-27, Amended 04-07-2015; Summary published 04-16-2015.
 Subsection 1514, 302 & Section 1700, Amended 11-19-2013; Summary published 11-28-2013.
 Subsection 1503, Amended 06-04-2013; Summary published 06-13-2013.
 Sections 100-800 & 1500 Amended 03-27-2012; Summary published 07-12-2012.
 Subsections 1520 & 1521 Approved 09-20-2011; Summary published 10-24-2011.
 Original Adoption 01-1989, Amended: 03-1989, 04-1990, 08-1993, 08-2000, 12-2010.

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[Notes: Regulations from more than one section may be applicable.
References to MN Statutes or Rules include such Statutes or Rules as amended.]

An Ordinance of the City of Rushford Village establishing comprehensive zoning regulations for the purpose of safeguarding the health, safety, order, convenience, prosperity and general welfare by regulating the use of land, the location, area size, use and height of buildings and structures on lots, and the density of population in the City of Rushford Village and further providing for the administration, enforcement and amendment thereof, and for the repeal of all ordinances in conflict herewith.

The City Council of the City of Rushford Village, Minnesota in accordance with the authority granted by Minnesota Statutes, Chapter 462, Minnesota Municipal Planning and Zoning Act, does ordain:

SECTION 100. TITLE.

This Ordinance shall be “The Zoning Ordinance of the City of Rushford Village, Minnesota” and is referred to herein as “this Ordinance” or “this Amended Ordinance”.

SECTION 200. SCOPE AND INTERPETATION OF STANDARDS.

SUBSECTION 201. SCOPE.

From and after the effective date of this ordinance, the use of all land and every structure and the erection or structural alteration, exterior or interior, of any structure or portion of a structure in the City of Rushford Village shall be in conformity with the provisions of this Ordinance. Any structure or use lawfully existing at the passage of this Ordinance, but not in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of Section 1600, of this Ordinance, “Non-Conforming Uses of Land or Structures.”

SUBSECTION 202. INTERPRETATION.

The provisions of this Ordinance shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulations, this Ordinance shall apply. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, such restrictions shall apply.

SUBSECTION 203. DISCLAIMER OF LIABILITY.

The regulations herein established are intended to provide a reasonable approach to land use and shall not create a liability on the part of, or cause action against the City of Rushford Village, officers or employees thereof, for any damage that may result from reliance upon this Ordinance or Districts so established. Also, compliance with this Ordinance does not infer that all requirements of applicable State and Federal regulations have been met.

SECTION 300. RULES AND DEFINITIONS.

SUBSECTION 301. RULES.

For the purpose of this Ordinance, words used in the present tense shall include the future; Words used in the singular shall include the plural, and the plural the singular. The word “Shall” is mandatory and not discretionary. The word “May” is permissive. The word “Lot” shall include the words “Plot”, “Piece”, and “Parcel”. The phrase “Used For” shall include the phrases Arranged For”, “Designed For”, “Maintained For” and “Occupied For”.

SUBSECTION 302. DEFINITIONS. (See additional definitions in some subsections.)

ACCESS – The entrance to any structure or property that is required from a public street or highway.

ACCESSORY STRUCTURE – (See Building, Assesory.)

ACCESSORY USE of an **ACCESSORY STRUCTURE** – See Use, Assesory.

ACRE – A measure of land equal to 43,560 square feet.

ADMINISTRATIVE OFFICIAL / PLANNING and ZONING ADMINISTRATOR – The Administrative Official and the Planning and Zoning Administrator shall both mean the person designated to administer / oversee the Comprehensive Plan and the Planning and Zoning Ordinances of the City of Rushford Village, Minnesota, or authorized representative.

AFFECTED PROPERTY OWNER(S) – shall mean an owner of property for which an amendment is proposed, an owner of adjoining property for which an amendment is proposed, any person who states in writing to the Zoning Board of Adjustment that he/she/they will be affected by a decision made upon an Application for an amendment and who states facts showing how he/she/they will be affected, or an owner(s) of property annexed or consolidated or to be annexed or consolidated.

AGRICULTURE – The art or science of raising livestock and poultry, cultivating the soil and activities incidental thereto; The growing of soil crops in the customary manner on open tracts of land; The accessory raising of livestock and poultry; Farming. The term shall include incidental retail or wholesale selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished outside the public right-of-way.

AGRICULTURE, OPEN SPACE – Land used for agriculture, forestry, natural habitat, pedestrian corridors and/or recreational purposes.

AGRICULTURE, PROTECTED – Land that is continuing in or has the potential of being used for production agriculture or forestry and as designated in Section 600 of this Ordinance.

ALLEY – A public or private right-of-way less than 30 feet in width which affords only secondary means of access to abutting property.

ALTERATION – As applied to a building or structure, is a change or rearrangement in the structural parts or in the ingress and egress facilities, or an enlargement whether by extending any side or by increasing in height, or moving from one location or position to another.

ANIMAL FEEDLOT – As defined and regulated by the Fillmore County Feedlot Ordinance pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 115 and 116, 122, and Minnesota Pollution Control Agency Rules, Parts 7020.0200 - 7020.2225, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394. Pasture shall not be considered to be animal feedlots.

ANIMAL FEEDLOT, EXISTING – A feedlot which has obtained a feedlot permit from Fillmore County or the MPCA or a feedlot that is in operation and should have a feedlot permit but has not gotten it yet. If a feedlot is abandoned or unused for five (5) consecutive years or more it is no longer considered an existing feedlot.

ANIMAL FEEDLOT, EXPANSION – The increase of animal units at an existing feedlot site. For purposes herein, the resulting total number of animal units for the site shall not exceed the maximum amount allowed.

ANIMAL FEEDLOT, NEW – An animal feedlot constructed and operated on a parcel of land where no animal feedlot existed previously or where a pre-existing feedlot has been abandoned or unused for the period of five (5) consecutive years or more. In order for a feedlot to be classified “New”, it must meet all of the following criteria (See Animal Feedlot above).

- A. It must have its own separate access, well, and utilities.
- B. It must have been reviewed by the CRV prior to a Fillmore County and/or MPCA permit as required.

ANIMAL UNIT – "Animal unit" means a unit of measure used to compare differences in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer for an animal feedlot or manure storage area calculated by multiplying the number of animals of each type in clauses (1) to (9) by the respective multiplication factor and summing the resulting values for the total number of animal units (See MN Statute 116.06). Examples: one mature dairy cow under 1,000 pounds = 1.0 animal unit(a.u.), over 1,000 pounds = 1.4 a.u.; one horse = 1.0 a.u.; one sheep or goat = 0.1 a.u. The number of animal units shall be generally defined as the average weight of the animal in pounds divided by 1,000 pounds.

ANIMALS, LIVESTOCK – "Livestock" refers to one or more domesticated animals raised in an agricultural setting to produce commodities such as food, fiber, and labor. The term “livestock” may include poultry in an agricultural setting.

APARTMENT – A room or suite of rooms designed for, intended for or used as a residence for the one family or individual and equipped with its own permanently installed cooking facilities.

APARTMENT BUILDING – Three (3) or more apartments grouped in one (1) building.

APPLICANT – The person(s) who has (have) submitted an Application for approval under this Ordinance.

APPLICATION – A written request required for a permit, use, variance or appeal, presented on a form provided by the City of Rushford Village and requiring the following: True name and address of the Applicant(s); The appropriate fee (Section 1800 & Annual Fee Schedule); and such pertinent information necessary to process the request as outlined elsewhere in this Ordinance and/or other City of Rushford Village Land Use Ordinance(s) or other applicable ordinance(s).

BASEMENT / CELLAR – A story having part but not more than one-half (1/2) its height below the average level of the adjoining finished grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for business or dwelling purposes. A basement may be used as a liveable if it meets all applicable codes and regulations.

BED & BREAKFAST – A building or any part thereof, other than a hotel, motel, or boarding house, where lodging and breakfast are provided to transient guests by a resident family for compensation.

BILLBOARD – (See Signs, Advertising)

BLOCK – A tract of land bounded by streets, or a combination of streets and public (parks, cemeteries, railroad right-ofways, shorelines, waterways, or boundary lines of the corporate limits of the city).

BLUFF – A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than eighteen (18) percent over a distance of fifty (50) feet or more shall not be considered part of the bluff); The slope rises at least twenty five (25) feet and the grade of the slope from the toe of the bluff to a point twenty five (25) feet higher averages thirty (30) percent or greater as determined by a MN registered / licensed surveyor or engineer.

BLUFF IMPACT ZONE – A bluff and land located within one hundred (100) feet from the top of the bluff.

BOARD, ZONING BOARD of ADJUSTMENT – (See Zoning Board of Adjustment)

BOARDING HOUSE – A building other than a hotel or motel, where for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided to three (3) or more persons, but not exceeding ten (10) persons.

BOND – (See Financial Security.)

BREEZEWAY – Enclosure between house and garage (s) with roof and at least half walls.

BUFFER / TRANSITION – Attractive or natural land between two differently zoned areas.

BUILDABLE AREA – The space of a lot after the minimum open space and setback requirements of this ordinance have been met.

BUILDING – Any structure having a roof supported by columns or walls, used or intended to be used, for the shelter, or enclosure of persons, animals, or property of any kind, and when separated by party walls without openings, each portion of such buildings so separated shall be deemed a separate building.

BUILDING, ACCESSORY – A subordinate building or structure on the same lot, or part of the principal building, exclusively occupied by or devoted to a use incidental to the principal use.

BUILDING, DETACHED – A building surrounded by open space, said open space being on the same zoning lot as the building.

BUILDING, HEIGHT OF – The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height – level between eaves and ridge for gable, hip or gambrel roofs.

BUILDING LINE – An imaginary line separating the buildable area on a lot and required yards.

BUILDING LINE SETBACK – The distance between the building line and the street right-of-way line in a district, lot, tract or parcel of land.

BURNING, OPEN – "Open fire" or "open burning" means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed firebox, structure or vehicle and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney. A Permit is required unless the ground is snow-covered (MN Statute 88.01 Subd. 23, 88.16 and 88.17).

CABIN – A structure that shall not be used as a permanent place of residence and shall be used principally for recreational activity.

CAMPFIRE – "Campfire" means a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has had the ground five feet from the base of the fire cleared of all combustible material (MN Statute 88.01 Subd. 25).

CAMPGROUND / RECREATIONAL CAMPING AREA – See Recreational Camping Area / Campground.

CARETAKER DWELLING – (See Dwelling, Caretaker.)

CITY / CRV – THE CITY of RUSHFORD VILLAGE, MINNESOTA; it shall also mean any representative of the City, including but not limited to its administrative officials, commissions, or other public body that is involved in the issue under consideration.

CITY COUNCIL – CITY of RUSHFORD VILLAGE COUNCIL.

CLINIC – A place used for the care, diagnosis and treatment of sick, ailing, infirm, and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room, nor kept overnight on the premises.

CLUB – A non-profit association of persons who are bona fide members, organized for some common purpose and paying regular dues, but not including a group organized solely or primarily to tender a service customarily carried on as a commercial enterprise.

COMMISSION, PLANNING and ZONING – The Planning and Zoning Commission of the City of Rushford Village, Minnesota, shall mean the Planning and Zoning Commission as authorized in Section 1700 of this Ordinance No. 5, as amended.

COMPREHENSIVE PLAN – The policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities including recommendations for plan execution, documented in texts, ordinances and maps which constitute the guide for the future development of any portion of the City of Rushford Village (MN Statute 462.355).

CONCEPT PLAN – A sketch, site plan or map, submitted prior to preparation of a preliminary plat, depicting general development plans for the entire area to be developed.

CONDOMINIUM – A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of Minnesota Statute Chapter 515, The Minnesota Condominium Act.

CONVALESCENT OR REST HOME – A home, designed and licensed to provide care for children, aged or infirm persons requiring or receiving personal care or custodial care, and complying with the standards established by the Minnesota State Board of Health.

CORNER LOT – (See Lot, Corner.)

COUNCIL / VILLAGE COUNCIL / RUSHFORD VILLAGE COUNCIL – THE CITY COUNCIL of the CITY of RUSHFORD VILLAGE, MINNESOTA.

COURT – An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

COURT, INNER – A court enclosed on not less than three (3) sides by exterior walls on lot lines on which walls are allowable.

COURT, OUTER – A court enclosed on not more than three (3) sides by exterior walls on lot lines on which walls are allowable, with one side or end open to a street, driveway, alley, or yard.

CURB LEVEL – The level of the established curb in front of the building measured at the center of such front where a building faces on more than one (1) street; the curb level shall be the average of the levels of the curbs at the center of the front of each street.

DAY CARE – Use of a building or any part thereof so designed and/or licensed for daily care of children or adults.

DWELLING – A building or portion thereof designed or used exclusively for residential occupancy, including one-family, two-family, and multiple-family units.

DWELLING, ATTACHED – A dwelling joined to other dwellings by a party wall or walls (group, row, townhouse).

DWELLING, CARETAKER – Living quarters on a business property for a caretaker and his / her immediate family (spouse or partner, and/or natural or adopted children under the age of 18 years old) when a responsible attendant or caretaker is required at all times by statute (see MN Statute 327.20, as amended). Such living quarters shall not be a stand-alone dwelling, but part of a building that is integral to the operation of the business in a commercial and/or industrial zone.

DWELLING, DETACHED – A dwelling entirely surrounded by open space, said open space being on the same zoning lot as the dwelling.

DWELLING, EARTH SHELTERED – Means constructed so that 50 percent or more of the exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth sheltered (MN Statute 216C.06).

DWELLING, FARM – A dwelling located on a farm which the residents of said dwelling either own, operate, or are employed thereon.

DWELLING, FARM /AG WORKER HOUSING / BUNKHOUSE – A building or modern bunkhouse to house farm workers or agricultural workers on the primary building site of the farm on which such workers are employed, provided:

- A. Such farm employs at least six (6) workers at any given time during the year, including seasonal or otherwise.
- B. Adequate documentation shall be submitted in order to determine that the above criteria are met and maintained before construction or use of any such facility, and certified annually.

- C. Such housing, as a minimum, must have private sleeping quarters, a shared gathering space(s), electricity, central heating, and modern indoor plumbing.

DWELLING, MANUFACTURED HOME – A structure, transported in one or more sections, which in the traveling mode is **eight (8) body feet or more in width or forty (40) feet or more in length, or when erected on site, is 320 or more square feet**, which is built on a permanent chassis designed to be used as a dwelling, with a permanent foundation and connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the US Secretary of Housing and Urban Development (HUD) and complies with the standards established under Minnesota Statutes Chapter 327. (See Section 1500 of this Ordinance)

DWELLING, MODULAR – A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. Included in Minnesota Administrative Rules, 1361.0200 Definitions, Subpart 4. "INDUSTRIALIZED / MODULAR BUILDING" means a building of closed construction, constructed so that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage, or destruction, and made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "INDUSTRIALIZED / MODULAR BUILDING" includes, but is not limited to, modular housing that is factory-built single-family and multifamily housing, including closed wall panelized housing.

DWELLING, MULTIPLE-FAMILY – A dwelling containing three (3) or more dwelling units, designed with more than one (1) dwelling unit connected by a common corridor or entranceway, originally constructed for said purpose: and including apartments or condominiums but not including converted dwellings or attached row dwellings (party-wall type) as defined herein.

DWELLING, NON-FARM – A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident(s) of said dwelling neither operates, nor is/are employed thereon.

DWELLING, SINGLE-FAMILY – A dwelling containing accommodations for and occupied by one (1) family only.

DWELLING, TWO-FAMILY/DUPLEX – A dwelling designed exclusively for occupancy by two (2) families independently of each other.

DWELLING UNIT – One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

EASEMENT, ACCESS – A grant by a property owner for the use of a strip of land for the purpose of ingress or egress to land.

EASEMENT, UTILITY – A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining or accessing utilities, including but not limited to sanitary sewers, water mains, electrical lines, telephone lines, storm sewer or storm drainage ways and gas lines.

ENGINEER, OTHER PROFESSIONAL – The Rushford Village Engineer, or other professional Engineer, or other professional (surveyor, etc.) who is licensed in the State of Minnesota who may be retained by the Rushford Village Council or platting authority, for engineering services or other professional work in connection with subdivision plats, including establishment of grades, and preparation of standards and specifications for improvements required to be installed by sub divider, and checking plats and surveys for accuracy. A municipality may require that an Applicant establish an escrow account or other financial security for the purpose of reimbursing the municipality for direct costs relating to professional services provided during the review, approval and inspection of the project. A municipality may only charge the Applicant a rate equal to the value of the service to the municipality. Services provided by municipal staff or contract professionals must be billed at an established rate. (MN Statute 462.358)

EXCAVATION / EXTRACTION – as used and regulated in this Ordinance (See Subsection 1503) and as distinguished from land alteration as defined and regulated in this Ordinance, shall mean any artificial excavation of the earth, within the City of Rushford Village, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth.

ESSENTIAL SERVICES – The erection, construction, alteration or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electric, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipe, conduits, cables, fire alarm boxes, police call 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 or governmental agencies or for the public health or safety or general welfare, but not including buildings.

FAMILY – An adult individual, two adults, or more than two adult persons of first degree kindred, living together as a single housekeeping unit in a dwelling with their biological or adopted children, or children with said adults under legal guardianship or custodianship, or placement by legal process.

FARM – A farm is a real property of forty (40) contiguous acres or more and is principally used for agricultural activities such as the production of cash crops, livestock and poultry farming. Such farms may include the dwelling and agricultural buildings necessary to the operation of the farm.

FARM, CROP – An area of more than one (1) acre which is used for the growing of the usual farm crops such as vegetables, fruit trees, and grain, and for the packing or storage of the products produced on the premises, but not including the raising of farm animals or laboratory animals such as mice, rats, rabbits, etc.

FEEDLOT – (See Animal Feedlot.)

FEEDLOT, EXISTING – (See Animal Feedlot, Existing.)

FEEDLOT, NEW – (See Animal Feedlot, New.)

FINANCIAL SECURITY – Any form of security, including cash deposit, certified check, irrevocable letter of credit, bond / performance bond, escrow account, or other financial security in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. (MN Statute 462.358) The City Council shall approve all security whenever it is required by these regulations.

FLOOD FRINGE – means the portion of the floodplain outside of the floodway.

FLOODPLAIN – means the areas adjoining a watercourse or water basin that have been or may be covered by a regional flood (MN Statute 103F.111).

FLOODWAY – means the channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

FLOOR AREA – The floor area of a building is the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls.

FLOOR AREA, LIVABLE – Livable floor area shall be the same as floor area defined above excluding all areas occupied by cellars, garages, porches, attics, stairways and storage, utility and heating rooms.

FLOOR AREA RATIO (F.A.R.) – The floor area ratio of the building or buildings on any zoning lot is the floor area of the building or buildings on that zoning lot divided by the area of such zoning lot, or in the case of planned developments, by the net site area. The floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

FOOTING – That portion of the foundation of a structure which spreads and transmits loads directly to the soil or piles.

FOUNDATION – The continuous base, built / installed to the customary frostline, that supports the load-bearing walls of a structure with the exception of Manufactured Homes which may require piers in accordance with manufacturer's specifications.

FROSTLINE, CUSTOMARY – A minimum of four (4) feet or more as determined by licensed contractors or other qualified professional.

FRONTAGE – All the property fronting on one (1) side of a street between the nearest intersecting streets, and or between other adjoining properties, streets, right-of-way, waterway or other similar barrier.

GARAGE, PRIVATE – An accessory building designed or used for the storage of passenger cars and trucks and /or trailers owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC – Any premises used for the storage or care of motor vehicles and /or trailers, except private garages or premises where any such vehicles are equipped for operation, are repaired, or are kept for remuneration, for hire or for sale.

GARAGE, TRUCK – A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding one and one-half (1 & ½) tons capacity.

HAZARDOUS WASTES – See toxic and hazardous wastes.

HIGH RISE BUILDING – Any structure designed for a specific use that exceeds the fourth floor of elevation.

HOME OCCUPATION – Any use carried on by a resident member of a family which use is clearly secondary to the use of the dwelling for dwelling purposes and does not change the character of the immediate neighborhood.

HOTEL, MOTEL – A building, occupied as a temporary abiding place of individuals who are lodging with or without meals, in which there are more than five (5) sleeping rooms and wherein no provisions are made for cooking in any individual room or apartment.

IMPERVIOUS SURFACE – A constructed hard surface (such as rooftops, driveways, concrete, blacktop, etc.) that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development.

JUNK YARD, SALVAGE YARD OR RECYCLING CENTER – Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled, including but not limited to scrap metal, rags, paper, hides, rubber products, lumber products and products resulting from the wrecking of motor vehicles, trailers and other machinery.

KENNEL, COMMERCIAL – Is the buying, selling or keeping for compensation of domestic animals and shall include whether for compensation or not, any structure or premises where **five (5) or more** domestic animals over the age of four (4) months are kept.

KENNEL, NON-COMMERCIAL – Any structure or premises where **no more than four (4)** domestic animals over the age of four (4) months are kept and which is not used for buying, selling or keeping for compensation of said domestic animals.

LAND ALTERATION – Any removal of natural vegetation and /or artificial excavation of the earth, other than landscaping for an existing residence or soil preparation for agricultural crops.

LANDOWNER / LANDOWNER of RECORD – Shall mean the Owner of Record in the Fillmore County Recorder's Office of a parcel(s) of land at the time of any action under this Ordinance concerning such parcel(s) of land.

LAND USE PLAN – The plan for use of the land in the City of Rushford Village as described and regulated in this Ordinance and the Fillmore County Land Use Plan in the event that a separate plan for the City of Rushford Village is not established.

LOADING SPACE – An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

LOT – A piece or parcel of land occupied or intended to be occupied by a principal building and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required under this Ordinance and having principal frontage on a street or officially approved place.

LOT AREA PER FAMILY – The minimum area required by this Ordinance in each zoning district, that is to be provided for each family dwelling and which is measured by square feet or acres. (See Section 1500)

LOT COVERAGE – The maximum allowable amount of lot area to be covered by impervious surface is not more than 25%. This shall include the principal use and its accessory structures. The total pervious surface, including setbacks, is therefore 75%.

LOT DEPTH – The mean horizontal distance between the front lot line and rear lot line which shall be a minimum of one hundred twenty (120) feet. The greater frontage of a corner lot is its depth and its lesser frontage is its width.

LOT OF RECORD / PARCEL OF RECORD – A lot which is a part of a subdivision, the map of which has been recorded in the office of the County Recorder, or a lot described by metes and bounds, the deed to which has been **recorded in the office of the County Recorder on or before January 2, 1989**, the effective date of the first Zoning Ordinance of the City of Rushford Village.

LOT, CORNER – A lot butting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. The point of intersection of the street lines is the "Corner".

LOT, DOUBLE FRONTAGE – A lot having frontage on two (2) non-intersecting streets as distinguished from a corner lot.

LOT, FRONTAGE – (See lot line, front.)

LOT, INTERIOR – A lot other than a corner or reversed corner lot.

LOT LINES – The property lines bounding the lot.

LOT LINE, FRONT – The line separating the lot from a street. On a corner lot, the shortest street lot line shall be the front lot line.

LOT LINE, REAR – The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE – Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

LOT LINE, STREET – A lot line separating the lot from a street.

LOT WIDTH – The mean width of the lot measured at right angles to its depth, which shall be a minimum of one hundred (100) feet at the front building line.

MANUFACTURED / MOBILE HOME – See dwelling, manufactured home.

MANUFACTURED / MOBILE HOME FOUNDATION – See Foundation.

MANUFACTURED HOME PARK – Any site, lot, field or tract of land upon which two (2) or more occupied manufactured homes are located for residential purposes either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park as defined in MN Statutes 327 and as regulated in Section 900 of this Ordinance (DELETED). Manufactured home parks shall not include motor vehicles or manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection, display, and sale.

MANUFACTURED HOME LOT – A parcel of land in a manufactured home park which is rented or sold for the exclusive use of the occupants of a single manufactured home.

MANUFACTURED HOME PAD – The surface of a manufactured home stand of a material which will prevent the growth of vegetation.

MANUFACTURED HOME STAND – That part of an individual lot which has been reserved for the placement of the manufactured home, appurtenant structures or additions.

METES AND BOUNDS – A method of property description utilizing direction and distance from an identifiable point to describe the property.

MIXED USE DEVELOPMENT – The development of a parcel of land with two or more different uses such as residential, commercial, or manufacturing, or with residential uses of different densities as permitted by this Ordinance.

MODULAR HOME – (See Dwelling, Modular.)

MOTEL – (See Hotel.)

MOTOR VEHICLE – Every vehicle which is self-propelled and every vehicle which is propelled by electric power. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

MOTOR VEHICLE REPAIR FACILITY – A facility for the servicing or general mechanical repair, rebuilding or reconditioning of engines, motor vehicles, or any other self-propelled device. Services may include incidental body or fender work, or other minor collision repairs, painting, reupholstering, replacement of parts or general cleaning.

MOTOR VEHICLE SERVICE STATION OR FILLING STATION – A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale and delivered directly into motor vehicles, including greasing and oiling on the premises but excluding any operation named under motor vehicle and trailer repair, major and motor vehicle or trailer sales area.

MOTOR VEHICLE OR TRAILER SALES AREA – An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

NON-CONFORMITY – Any legal use, structure or parcel of land **already in existence, recorded, or authorized before January 2, 1989**, the effective date of the first Zoning Ordinance of the City of Rushford Village, that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized. (MN Statute 462.357 & Section 1600 of this Ordinance)

NURSING HOME – A facility or that part of a facility which provides nursing care to or can accommodate five (5) or more persons. “Nursing Home” does not include a facility or that part of a facility which is a hospital, clinic, doctor’s office, diagnostic or treatment center, or a licensed residential facility. “Nursing Care” means health evaluation and treatment of patients and residents who are not in need of an acute care facility but who require nursing care on an inpatient basis.

OBSTRUCTION – Any object, material or structure in, along, across or projecting into ditches or an established drainage system which may impede, retard or change the flow of water run-off, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same to lower levels and which may cause damage to life or property. (See City of Rushford Village Flood Plain Management Ordinance, Ordinance No. 4)

OPEN SPACE / GREEN SPACE – Land used for gardens, landscaping, natural habitat, natural pedestrian corridors, and/or recreational purposes, that is dedicated to be protected from future development.

OPEN SPACE, PRIVATE – Any land owned by private persons or homes association wherein the land is dedicated for a use such as public open space but used by the private persons or association.

OPEN SPACE, PUBLIC – Any publicly owned open area, including but not limited to the following: parks, playgrounds, school sites, parkways and streets.

ORDINARY HIGH WATER LEVEL – The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominate aquatic to terrestrial. For watercourses, it is the the elevation of the top of the bank of the channel.

PARCEL OF RECORD – (See Lot of Record)

PARKING SPACE – A land area of not less than three hundred (300) square feet, exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley. Truck loading and unloading space shall not be included in such area. (See Section 1500)

PERSON(S) – Any individual, firm, partnership, corporation, company, association, joint stock association or body politic: including any trustee, receiver, assignee, or other similar representative thereof.

PLAT – A land subdivision that creates new lots and / or public road right-of-ways, thereby replacing the former land records for the platted area.

PLANNING and ZONING COMMISSION – (See Commission, Planning and Zoning)

PREMISES – A lot or parcel of land with the required front, side and rear yards for a building or other uses as allowed under this Ordinance.

PUBLIC UTILITY – Any person, firm, corporation, municipal department or board fully authorized to furnish and furnishing under municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation, water or similar services.

PUBLIC WATER – A body of water as depicted on the public water inventory map.

QUARTER-QUARTER – One-Fourth(1/4) of One-Fourth(1/4) of a standard section of land (40 acres of 160 acres of 640 acres) which equals forty (40) acres.

RECREATIONAL CAMPING AREA / CAMPGROUND – [MN Dept of Health General Requirements] Recreational camping area (RCA), means any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of five or more tents or recreational camping vehicles free of charge or for compensation. "Recreational camping areas" do not include youth camps, industrial camps, U.S. Forest Service Camps, state forest service camps, state wildlife management areas or state owned public access areas which are restricted in

use to picnicking and boat landing, and temporary holding areas for self contained recreational vehicles created adjacent to motor sports facilities.

RECREATIONAL CAMPING VEHICLE (RCV), includes the following:

A. Any vehicular, portable structure, built on a chassis and mounted on wheels, that is designed to be used as a temporary dwelling for travel, recreational, and vacation uses;

B. Any portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self propelled vehicle; and

C. Any folding structure, mounted on wheels designed for travel, recreation, and vacation use.

RECYCLING CENTER – (See Junk Yard, etc.)

RENEWABLE ENERGY, SOLAR ENERGY SYSTEM – means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy. (See Subsection 1520)

RENEWABLE ENERGY, WIND ENERGY CONVERSION SYSTEM (WECS) – means any device, such as a wind charger, windmill, or wind turbine, which converts wind energy to a form of usable energy. (See Subsection 1521)

REST HOME – See convalescent or rest home / nursing home.

RE-ZONE – A change in zoning, which requires an Application and a public hearing.

RIVERS AND STREAMS – Flowage that is not intermittent.

ROAD – (See Street /Road.)

SCREEN – A partition of adequate height and material so that material screened is not visible from the adjacent street (s) or adjoining property.

SETBACK LINE – The allowable building line as regulated by the General Regulations of this Ordinance (Section 1500) and referenced more specifically where applicable.

SHORE IMPACT ZONE – The land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

SHORELAND – As regulated by the Department of Natural Resources, is land located within the following distances from public waters: (1) 1,000 feet from the normal high water mark of a lake, pond or flowage; and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend

landward from the waters for lesser distances and when approved by the commissioner. (MN Admin Rules 6120.2500)

SIGN – A name, identification, description, display, illustration or device which is affixed to or represented directly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business. Warning signs or public identification signs shall be exempt from these regulations when under two (2) square feet in size.

SIGN, ADVERTISING / BUSINESS – A sign which directs attention to a business, profession, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

SIGN, AREA OF – (See sign, surface area of.)

SIGN, DISPLAY – An advertising device.

SIGN, FLASHING – Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use (prohibited in Section 1500 of this Ordinance).

SIGN, ILLUMINATED – Any sign which has light shining on the sign or lighting from within the sign.

SIGN, MARQUEE – Any sign affixed to any hood, marquee or canopy attached to or a part of a building.

SIGN, NAMEPLATE – Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

SIGN, ROTATING – A sign which revolves or rotates on its axis by mechanical means (prohibited in Section 1500 of this Ordinance).

SIGN, SURFACE AREA OF – The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a sign double-face or V-Type sign structure shall be used in computing total surface area.

SLOPE – Average inclined surface of a building area as described herein or average inclined surface of roads, easements, or access points to a building area (See Section 1500).

SPLIT – Any division of a parcel of record independent of an Application for use.

SPLIT, SIMPLE – Any division of a parcel into **not more than two (2) smaller parcels or building lots**, subject to a survey and recording with the Fillmore County Recorder, and for which

there is **no possibility of a subdivision of more than two (2) parcels or building lots.** (See Subdivision Ordinance, Ordinance No. 11)

STANDARD, PERFORMANCE – A criterion established in the interest of protecting the public health and safety for the control of noise, order, smoke, noxious gases and other of objectionable or dangerous elements generated by, inherent in, or incidental to land use. (Subsection 1517)

STORMWATER MANAGEMENT / VOLUME CONTROL – means the use of structural or non-structural best management practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates resulting from heavy rains, snow melt, etc. Such best management practices shall prevent erosion or run-off onto neighboring properties. A Stormwater Management Plan is required for all developments in which one (1) acre or more is disturbed or which results in the development of two (2) or more building lots. Said plan must address volume control during and following construction.

STORM WATER RETROFIT – means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

STORMWATER RUNOFF – means flow on the surface of the ground, resulting from precipitation.

STORMWATER TREATMENT (Best Management) PRACTICES (STP's) – means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORY – That portion of the building including between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, the space between the floor and the ceiling next above it.

STORY, HALF – A space under a sloping roof which has a line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

STREET / ROAD – A public right-of-way approved or accepted by public authority. The term “Street” shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

STREET LINE – The Right-of-Way line of a street.

STRUCTURAL ALTERATIONS /REMODELING – Other than incidental repairs, any changes in supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof, windows, or exterior walls.

STRUCTURE – Anything constructed or erected on the ground except fencing. (See Building)

STRUCTURE, TEMPORARY – A movable structure of less than 160 square feet in area (taxable threshold) and that is not attached to the ground (e.g., on skids).

SUBDIVIDER / DEVELOPER – Any person, firm, corporation, partnership or association who causes land to be divided, platted or planned, into a subdivision for such person or others.

SUBDIVISION – Any parcel of land hereafter **divided into two (2) or more tracts or parcels** of land, except a simple split, any of which is not less than the minimum area and dimensions required by this Ordinance in each zoning district, for the purpose of transfer of ownership or building development. The term includes Re-Subdivision, and where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided. (See also Split / Split, Simple; Section 1500 of this Ordinance; and Rushford Village Subdivision Ordinance, Ordinance No. 11)

SUBDIVISION, CLUSTER HOUSING / OPEN SPACE – A pattern of subdivision development that places residential dwelling units into compact groupings while providing a minimum of 25% dedicated or reserved open space / green space, that is, land left in an unbuildable area and/or common ownership status. (See Ordinance No. 11)

SUBDIVISION, MINOR – A subdivision by means of a simple split, and neither parcel created is less than the minimum area required in the district where located.

SUBDIVISION, NONRESIDENTIAL – A subdivision, the intended use of which is other than residential, such as commercial, industrial, or institutional.

SUBDIVISION, RURAL RESIDENTIAL – A subdivision developed on land that was formerly within the boundaries of an Agricultural District, which has been rezoned as Rural Residential and that meets the requirements of the Subdivision Ordinance, Ordinance No.11.

TOWNHOUSE – A structure housing three (3) or more dwelling units of not more than two (2) stories each and contiguous to each other only by the sharing of one (1) common wall. Such structures to be of the town or rowhouse type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling shall have separate and individual front and rear entrances.

TOXIC AND HAZARDOUS WASTES – Waste materials including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner to conserve the environment and protect the public health and safety.

UNIT DWELLING – (See dwelling unit.)

UNIT, LODGING, ROOMING, DORMITORY – A lodging, rooming or dormitory unit is a room rented as sleeping and living quarters but without cooking facilities and with or without an individual bathroom in a suite of rooms without cooking facilities. Each room which provides

sleeping accommodations shall be counted as one lodging room or rooming unit for the purpose of this Ordinance.

USE – The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

USE, ACCESSORY – A use subordinate to the principal use on the same lot and used for purposes customarily incidental to those of the principal use.

USE, CONDITIONAL – A use which because of unique characteristics, cannot be classified as an allowed use in any particular district. A conditional use permit may or may not be granted after due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location. If granted, the Zoning Board of Adjustment may attach conditions and guarantees upon the permit as deemed necessary for the protection of the public interest.

USE, INTERIM – A use which, because of unique characteristics, is not classified as a permitted use or a conditional use in any particular district, shall be subject to a time limit, and is not transferable. An Interim use permit may or may not be granted after due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location. If granted, the Zoning Board of Adjustment may attach conditions and guarantees upon the permit as deemed necessary for the protection of the public interest.

USE, NON-CONFORMING – (See Non-Conformity.)

USE, PRINCIPAL PERMITTED – A use which is permitted outright in a district for which a zoning or use permit may be issued by the zoning administrator in accordance with the provisions of this Ordinance.

VARIANCE, PRACTICAL DIFFICULTIES – (MN Statutes 394.27) as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for **earth sheltered construction** as defined in section 216C.06, subdivision 14, when in harmony with this Ordinance.

VETERINARY CLINIC / HOSPITAL – A place used for the care, diagnosis and treatment of animals.

VILLAGE / RUSHFORD VILLAGE – THE CITY of RUSHFORD VILLAGE (CRV) MN.

WET LANDS – As regulated by public agencies and defined in Minnesota Statutes 103G.005, Subd 19:

A. "Wetlands" means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- (1) Have a predominance of hydric soils;
- (2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- (3) Under normal circumstances support a prevalence of such vegetation.

B. For the purposes of regulation under this chapter, the term wetlands does not include public waters wetlands as defined in subdivision 15a (MN Statute 103G.005).

YARD – An open space on the same zoning lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in the general regulations (Section 1500) of this Ordinance.

A. **Front** – A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot, adjacent to a structure located thereon.

B. **Rear** – A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and a parallel line thereto on the lot, adjacent to a structure located thereon.

C. **Side** – A yard, the depth of which is the minimum horizontal distance between the side lot line and a parallel line adjacent to a structure located thereon, and extending from the front yard, or the front lot line if no front yard exists, to the rear yard, or the rear lot line if no rear yard exists.

ZONING ADMINISTRATOR – (See Administrative Official / Planning and Zoning Administrator)

ZONING BOARD of ADJUSTMENT – The City of Rushford Village Zoning Board of Adjustment shall mean the City Council of the City of Rushford Village.

ZONING DISTRICT – An area or areas within the City limits of the City of Rushford Village for which the regulations and requirements governing use are uniform.

ZONING LOT – A plot of ground made up of one (1) or more parcels of land, which is or may be occupied by a use, building or buildings, including the open spaces required by this Ordinance.

ZONING MAP – The official map or maps incorporated into this Ordinance as a part hereof, designating the zoning districts. (See also Comprehensive Plan and Land Use map or maps)

ZONING PERMIT / LAND USE PERMIT – The permit issued by the City of Rushford Village indicating conformance with this Ordinance or uses consistent with the terms of this Ordinance, not

to be construed as being in conformance with the uniform building code, authorizing buildings, structures or uses consistent with the terms of this Ordinance.

SECTION 400. ZONING DISTRICTS.

SUBSECTION 401. ESTABLISHMENT OF DISTRICTS.

For the purpose of this Ordinance, the City of Rushford Village, Minnesota, is divided into the following districts:

401.01. OVERLAY ENVIRONMENTAL AND PLANNING DISTRICTS (Section 500)

- F-1 Flood Plain (Overlay) District (Subdivision 501)
- Shoreland, Blufflands, Parks and Trails Overlay District (Subdivision 502)
- Land Use Plan Overlay Districts [was 401.5] (Subdivision 503)

401.02. AGRICULTURE AND RESIDENTIAL DISTRICTS

- P-A Protected Agriculture District (Section 600)
- R-R Rural Residential District (Section 600 & Ordinance 11)
- R-1 1 & 2 Family Residential District (Section 700)
- R-2 Multiple Family Residential District (Section 800)
- [Deleted: R-3 Manufactured Home Park District (Section 900)]

401.03. BUSINESS, COMMERCIAL, AND INDUSTRIAL DISTRICTS

- B-1 General Business District (Section 1100)
- C/I Commercial / Industrial District (Section 1200)

401.04. INTERIM USE PERMIT AND MIXED USE.

- IU - Interim Use (See Section 1300 & other Subsections where applicable)
- MU - Mixed Use [See definition & Section 1300]

SUBSECTION 402. ZONING MAP.

402.01. The boundaries of the districts established by this Ordinance are delineated on the official Zoning Map. Said map and all notations, references and data shown thereon are hereby adopted and made part of this Ordinance and will be on permanent file and shall be available for public inspection in the office of the City Clerk for the City of Rushford Village.

402.02. If in accordance with the provisions of this Ordinance, changes are made in District boundaries or other matter portrayed on the official Zoning Map, such changes shall be made on said map within thirty (30) days after official publication of any such change and shall be properly attested to by the City Clerk.

402.03. No changes of any nature shall be made on the official Zoning Map, the matter shown thereon or the attached descriptions, except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of any kind by any person shall be considered a violation of this Ordinance and punishable as provided under Section 2300 of this Ordinance.

402.04. The official Zoning Map and descriptions on record in the office of the City Clerk shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the City of Rushford Village, except as applicable in 402.05.

402.05. Additional maps or overlay maps shall be reviewed when applicable along with the official Zoning Map, including, but not limited to, Flood Plain maps, and/or Shorelands, Blufflands, Parks and Trails maps, and Future Land Use Plan maps.

SUBSECTION 403. DISTRICT BOUNDARY LINES.

Whenever any uncertainty exists as to the boundary of any use district as shown on the official Zoning Map incorporated herein, the following rules shall apply:

403.01. Where district boundary lines are indicated as following streets, highways, alleys, railroads, or similar rights-of way, they shall be construed as following the center lines thereof.

403.02. Where district boundary lines are indicated as approximately following lot lines or section lines, such lines shall be construed to be such boundaries.

403.03. Where district boundary lines are indicated as parallel to or extensions of features indicated above in this subdivision, such lines shall be so construed to be such boundaries.

403.04. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.

403.05. Where physical or cultural features exist on the ground and are a variance with those shown on the official Zoning Map, or in other circumstances are not covered by this subdivision, the Zoning Board of Adjustment shall interpret the district boundaries.

403.06. Where a platted lot held in one (1) ownership, and of record at the effective date of this Ordinance, is divided by a district boundary line, the entire lot shall be construed to be within the least restrictive district.

SUBSECTION 404. ANNEXATIONS.

All territory hereafter annexed to the City of Rushford Village which is not shown on the official Zoning Map as part of this Ordinance, shall automatically upon annexation, be classified within the A-R Agriculture / Residential District and shall be subject to all regulations, notations, references and conditions applicable to said district until such time that a determination may be made as to the proper district classification and an amendment to this Ordinance may be made to that effect.

SECTION 500. OVERLAY ENVIRONMENTAL AND PLANNING DISTRICT.

SUBSECTION 501. F - 1 FLOOD PLAIN DISTRICT, REGULATIONS.

501.01. The Flood Plain District is that area described in the City of Rushford Village Flood Plain Management Ordinance, Ordinance No.4, and the official maps attached thereto.

501.02. The Flood Plain Management Ordinance of the City of Rushford Village and the applicable State and Federal Laws shall be the final authority for regulation of land use in the Flood Plain District excepting regulations which are more restrictive in this Ordinance and the City of Rushford Village Flood Plain Management Ordinance, Ordinance No.4.

501.03. The Flood Plain District boundaries have been determined by the Minnesota Department of Natural Resources using available flood information in the absense of a detailed Engineering Study and are based on the regulatory Flood Protection Elevation as determined by the U.S. Army Corps of Engineers. The profiles of the regulatory flood protection elevation are hereby adopted by reference and shall be kept on file with the official Zoning Map.

501.04. Flood Plain District Boundaries: The exact boundaries of the floodway and flood fringe portions of the Flood Plain District shall be determined on a case by case basis by the Zoning Board of Adjustment at the time a person applies for a Zoning Permit or Conditional Use permit. At such time, the Applicant shall furnish such information as is required by the City of Rushford Village Flood Plain Management Ordinance, Ordinance No.4.

501.05. The Flood Plain designation shall not be removed from flood plain areas unless and until it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation and are contiguous to other lands lying outside the Flood Plain District. Special exceptions to this subdivision may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are protected adequately for the intended uses.

SUBSECTION 502. SHORELANDS, BLUFFLANDS, PARKS AND TRAILS.

The purpose of this Subdivision is to establish controls normally used with regard to development adjacent to rivers and streams, and adjacent to blufflands, parks, and trails. In all areas where they apply. The standards as set forth in this Subdivision shall apply to all land within the City of Rushford Village. An additional purpose is to establish certain notification procedures for lands officially in shoreland status.

502.01. Shoreland Regulations, in accordance with the Department of Natural Resources, shall apply to all lands located within the following distances from public waters: (1) 1,000 feet from the normal high water mark of a lake, pond or flowage: and (2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner. (MN Admin Rules 6120.2500) The following river and stream have been classified as natural environment streams by the Commissioner of Natural Resources:

502.01.01. RUSH CREEK: Sections 3, 4, 10, 11, 13, 14, Rushford Village, Township 104 North - Range 8 West.

502.01.02. ROOT RIVER, Sections 13, 14, 19, 20, 21, 22, 23, 24, 29, 30, 31, Rushford Village, Township 104 North - Range 8 West.

502.02. Setback requirements for all structures.

502.02.01. 150 Feet from the ordinary high water line of rivers and streams.

502.02.02. 100 Feet from the top of bluffs.

502.02.03. 100 Feet from churches & cemeteries.

502.02.04. 200 Feet from public parks and water access points.

502.02.05. 200 Feet from the centerline of the State Trails, except for agriculture buildings.

502.02.06. 200 Feet from the ordinary high water line of lakes,

502.03. No vegetation shall be disturbed in the area from the top of the bank or ordinary high water level to fifty (50) feet land-ward. See also Shore Impact Zone. Intensive vegetation clearing within the Shore Impact and Bluff Impact Zones is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable if a conditional use is granted for an erosion control and sedimentation plan that is developed and approved by the Soil & Water Conservation District (SWCD).

502.04. No land shall be subdivided which is held unsuitable by the Council for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development. Severe erosion potential, unfavorable topography, inadequate water and sewage services or any other feature likely to be harmful to the health, safety or general welfare of the future residents of the proposed subdivision or the City of Rushford Village.

502.05. State Commissioner of Natural Resources Notification and/or Approval Required:

502.05.01. All Variances, Conditional Uses, Subdivisions and Amendments to the City of Rushford Village Zoning Ordinance that fall within the Shoreland as defined herein shall be forwarded to the State Commissioner of Natural Resources at least ten (10) days prior to the official City of Rushford Village public hearing date for his review and comments. Such submittal shall include: The type of request, the specific problem instituting the request when applicable and the time date and place of hearing.

502.05.02. Any alteration to the bed of public waters, including construction of channels, ditches, lagoons, dredging of bottom, muck or weeds or filling in a river bed, including marshlands must receive approval by the State Commissioner of Natural Resources and the Council prior to the commencement of operations.

SUBSECTION 503. LAND USE PLAN OVERLAY DISTRICTS.

The purpose of this Subdivision is to insure consistency with the City of Rushford Village Comprehensive Plan and Land Use Plan.

503.01. The Land Use Plan Overlay Districts apply especially to portions of the Agriculture / Residence District and areas designated as Protected Agriculture with special considerations. This Subdivision and Land Use Plan maps shall be reviewed prior to development in the Agriculture / Residence District and areas designated as Protected Agriculture . A transition buffer may be required as regulated elsewhere in this Ordinance.

503.02. Land Use Plan Overlay Area number 1 is designated as Protected Agriculture and is intended to remain in agriculture production or in a natural state. Landowners may consult County and State officials regarding the long term protection of these lands.

503.03. Land Use Plan Overlay Area number 2 includes land within a reasonable distance of an area served by municipal sewer and/or water and, if available, should be considered for connection to such municipal sewer and/or water, prior to development.

**SECTION 600. P-A PROTECTED AGRICULTURE,
AND R-R RURAL-RESIDENTIAL DISTRICTS.**

SUBSECTION 601. PURPOSE.

601.01. **PROTECTED AGRICULTURE DISTRICT AREAS.** The Protected Agriculture District is established to preserve for the long-term, the present agricultural lands, maintain other lands in a natural state, and permit very low density residential development. This District is intended to include lands as identified on the Official Zoning Map that are continuing in or have the potential of being used for Production Agriculture or Forestry and shall include in the City of Rushford Village, all of Sections 4, 5, 6, 7, 8, 9, 17, 18, 20, 25, 27, 28, 33, 34, and 36, and part of Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24, 26, 29, 30, 31, 32, and 35.

601.02. **NOTICE to LANDOWNERS.** The City of Rushford Village views the Protected Agricultural District as the zone for commercial agricultural production. Owners, residents, and other users of property in this district or neighboring properties may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operations, including but not limited to noise, odors, dust, operation of machinery of any kind including aircraft, the storage and disposal of manure, and the application of fertilizers, soil amendments, herbicides, and pesticides. Owners, residents, and other users of this property or neighboring property are hereby put on notice that this declaration may prevent them from obtaining a legal judgment against such normal agricultural operations.

601.03. **NON-FARM SINGLE FAMILY DWELLING.** Land to be considered for a non-farm single family dwelling, must have access to a public street or road.

601.04. A **RURAL RESIDENTIAL SUBDIVISION or REZONING** to a higher density residential district is subject to direct access to a paved or hard surface public street or highway, or location contiguous to a pre-existing subdivision with direct access to a paved or hard surface public street or highway and shall first consider the potential for long-term agricultural uses as identified in 601.01.

601.05. **MUNICIPAL SEWER and/or WATER.** Land that can be served by municipal sewer and/or water must be considered for higher density residential development, such as R-1.

601.06. **LIVESTOCK, EXOTIC, or NONDOMESTICATED ANIMALS** shall not be permitted in a residential subdivision in the R-R, Rural Residential District, or in the R-1 and R-2 Districts or residential subdivisions. (See also Animal Control Ordinance, Ordinance No.1)

601.06.01. Livestock, Exotic, or Nondomesticated animals shall only be permitted on a non-farm dwelling parcel that is larger than 2.5 acres and not in a residential subdivision and the number of animal units shall be limited per acre of pasture as prescribed in the Fillmore County Zoning /Feed lot Ordinance.

SUBSECTION 602. PERMITTED PRINCIPAL USES.

602.01. P-A PROTECTED AGRICULTURE.

602.01.01. Single-Family detached dwellings, including principal farm dwellings, at a density of not greater than one **(1) dwelling unit per quarter-quarter section of land**, except that a second farm dwelling under the same farm ownership is permitted in addition to a principal single family farm dwelling on a farm site, provided that the resident of the second dwelling either owns, operates, or is employed on the farm.

602.01.02. Agriculture or farming provided that no agricultural building shall be located within one hundred **(100) feet of any boundary line** abutting non-agriculture property. (See Section 1500 re: Livestock, other animals)

602.01.03. Churches, Schools, Memorial structures, and cemeteries, provided that no building shall be located within fifty (50) feet of any boundary or any abutting parcel within any Residential District.

602.01.04. Nurseries and greenhouses for growing plants.

602.01.05. Public parks, trails, wildlife management and similar facilities.

602.01.06. Hunting in accordance with Minnesota Department of Natural Resources (DNR) statutes and regulations.

602.02. P-A PROTECTED AGRICULTURE or R-R RURAL RESIDENTIAL.

602.02.01. Home Occupation.

602.02.02. Family Child Care, Adult Day Care, or Foster Care as permitted by MN Statutes 245A and 245C and MN Rules 9502 for State or County Licensing.

602.03. R-R RURAL RESIDENTIAL.

602.03.01. Housing Subdivisions or Cluster Development in accordance with City of Rushford Village/CRV Subdivision Ordinance No 11, except on lands identified in Section 601.01, above.

SUBSECTION 603. PERMITTED ACCESSORY USES.

603.01. Private garages and carports.

603.02. Private recreation facilities for the use and convenience of the residents, such as tennis courts and swimming pools, provided that any swimming pool shall meet all statutory and insurance requirements.

603.03. Tool houses and sheds or similar storage buildings for domestic supplies.

603.04. Boarding or rental of rooms within a principal dwelling is limited to not more than two (2) persons.

603.05. Signs in accordance with Subdivision 1500.

603.06. Out-buildings for the storage of agriculture equipment, supplies, feed or grain.

SUBSECTION 604. CONDITIONAL USES / INTERIM USES.

Conditional / Interim Uses shall first consider the potential for long-term agricultural uses as identified in 601.01. (See also Section 1300 for Interim Use)

604.01. P-A PROTECTED AGRICULTURE.

604.01.01. Animal feedlots as defined and regulated by the State of Minnesota through Fillmore County, except as limited by this Ordinance and any other regulation of the City of Rushford Village.

604.01.02. Riding stables and academies.

604.01.03. Commercial Kennel, provided that no Commercial Kennel shall be located within one-fourth (1/4 mile) of any lot in a residential district or within one-fourth (1/4 mile) of any dwelling not owned by the owner of the property upon which the Commercial Kennel is being operated.

604.01.04. Golf Clubhouse, country club, public swimming pool, private swimming pool serving more than one (1) family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.

604.01.05. Veterinary Clinic / Hospital.

604.01.06. Campgrounds subject to all applicable MN Statutes and CRV Ordinance No.17.

604.01.07. Excavation / Extraction of materials, including stone, sand, gravel, and minerals, open pits, hillsides (See Subsection 1503), and impounding of waters as regulated by the Minnesota Department of Natural Resources (DNR).

604.01.08. Cabin.

604.01.08.A. A cabin shall not be used as a commercial facility for rent

604.01.08.B. Permanent occupancy is prohibited. No cabin site shall be used as a permanent place of residence. **Occupancy beyond ninety (90) days in any twelve (12) month period shall be presumed to be permanent occupancy.**

604.01.08.C. Permanent connection to water or sewer is not allowed. All trash must be handled on a pack-in/pack-out basis.

604.01.08.D. Maximum density for cabins is one per quarter-quarter which cannot be in addition to a permanent dwelling, except as in 605.01.

604.01.08.E. Maximum size is 200 square feet and there shall be no permanent foundation.

604.01.08.F. Cabins shall be subject to all applicable MN Statutes and this Ordinance.

604.02. P-A PROTECTED AGRICULTURE or R-R RURAL RESIDENTIAL.

604.02.01. Municipal administration and other buildings, police and fire stations, art galleries, post offices, and other municipal services buildings except those customarily considered industrial in use, providing that no such building shall be located within fifty (50) feet of any lot in a residential district.

604.02.02. Buildings and facilities, reservoirs, wells, elevated tanks and similar essential public utility and service structures.

604.03. INTERIM USE: P-A PROTECTED AGRICULTURE or R-R RURAL RESIDENTIAL

604.03.01. Other Business Uses similar to those listed as permitted uses which would be in accord with the purpose of the Protected Agriculture or Rural Residential Districts, except businesses that would change the character of the district or disrupt the neighborhood and become a nuisance regarding noise, parking, traffic, etc.

604.03.02. Bed & Breakfast establishments.

604.03.03. Open storage. (See Section 1500, General Regulations)

604.03.04. Land alteration other than for single family dwellings or agricultural land use.

SUBSECTION 605. FARM / AG WORKER HOUSING AS INTERIM USE

605.01. One or more buildings or modern bunkhouses to house farm workers or agricultural workers on the primary building site of the farm on which such workers are employed, with the following conditions:

605.01.01. Multiple Housing Standards shall apply as to size, number of units, occupancy per unit, etc., as established and limited by the County, State of Minnesota, and this Ordinance.

605.01.02. The housing shall meet all requirements of this Ordinance and applicable State of Minnesota codes and statutes, including Fire Safety codes, structural codes, etc.

605.01.03. **Setbacks shall be no less than twenty (20) feet between living quarter structures.**

605.01.04. Potable water systems and sanitary sewage disposal facilities, to include restrooms and shower facilities, shall be provided that meet minimum recreational campground requirements

and all local, state, and federal laws, rules, and regulations. (See MDH “Summary of General Requirements” as attached and as amended from time to time.)

605.01.05. No such housing shall be built in a floodplain or designated shoreland.

605.01.06. Owner must provide evidence of insurability.

605.01.07. The City of Rushford Village Engineer may review and provide an assessment of the overall layout plan of structures and uses, whether new or retrofitted buildings.

605.01.08. All living quarter structures shall be clearly marked for Emergency Services.

SUBSECTION 606. DISTRICT STANDARDS. (See Section 1500, General Regulations)

SECTION 700. R-1 ONE AND TWO FAMILY RESIDENTIAL DISTRICT.

SUBSECTION 701. PURPOSE.

The R-1 District is intended for urban type, medium density residential development in those areas where such development fits the Land Use Plan and policies, particularly, but not limited to where municipal utilities are available and in areas which are partially or wholly developed residentially. It is further intended that establishment of this District will accommodate residential development on scattered existing vacant parcels, as well as redevelopment in some instances, within previously developed residential areas, subject to adequate municipal sewer and water utilities.

SUBSECTION 702. PERMITTED PRINCIPAL USES.

Within an R-1 District, unless otherwise provided by this Ordinance, no uses are permitted except the following:

702.01. Single – Family detached dwelling.

702.02. Two-Family attached dwellings (Duplex) **subject to a minimum lot of 16,000 sq.ft.**

702.03. Existing Agriculture or farming and truck gardening may continue provided that no additional agriculture building or structure shall be located within one hundred (**100**) feet of any parcel line abutting non-farm property.

702.04. Churches, schools, memorial structures, and cemeteries, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot within any residential district.

702.05. Home occupations.

702.06. Family Child Care, Adult Day Care, or Foster Care as permitted by MN Statutes 245A and 245C and MN Rules 9502 for State or County Licensing.

702.07. Public parks, trails, wildlife management and similar facilities.

702.08. Boarding or rental of rooms within a principal dwelling is limited to not more than two (2) persons.

SUBSECTION 703. PERMITTED ACCESSORY USES.

Any accessory use shall be located on the same lot with the principal use and shall conform to the minimum provisions thereof.

703.01. Private garages and carports – there shall be only one of each type.

703.02. Private recreation facilities for the use and convenience of the residents, such as tennis courts and swimming pools, provided that any swimming pool shall meet all statutory and insurance requirements.

703.03. Tool houses and sheds or similar storage buildings for domestic supplies.

703.04. SIGNS in accordance with Section 1500 of this Ordinance.

703.05. Off-street parking and loading / unloading facilities as regulated in Section 1500 of this Ordinance.

703.06. Buildings and land uses customarily incidental to the uses permitted in this section.

SUBSECTION 704. INTERIM USES. (See Section 1300)

SUBSECTION 705. DISTRICT STANDARDS. (See Section 1500)

SECTION 800. R - 2 MULTIPLE FAMILY RESIDENTIAL DISTRICT.

SUBSECTION 801. PURPOSE.

The R-2 District is intended for dwellings of three (3) or more dwelling units such as apartments, condominiums, and where adequate community or municipal sewer and water utilities are available.

SUBSECTION 802. PERMITTED PRINCIPAL USES.

802.01. Duplex, Multi-family dwellings.

SUBSECTION 803. PERMITTED ACCESSORY USES.

803.01. Accessory uses as permitted in Subdivision 703 of this Ordinance.

803.02. Any permitted accessory use shall be located on the same lot with the principal use and shall conform to the minimum provisions thereof.

SUBSECTION 804. DISTRICT STANDARDS. HEIGHT, SLOPE, AREA, YARD and LOT WIDTH REQUIREMENTS. (See Section 1500)

SUBSECTION 805. STORAGE.

805.01. Enclosed storage lockers, when provided shall be located adjacent to the multiple dwelling premises as to be convenient to the unit for which it is provided.

805.02. Storage of large items such as boats, boat trailers, snowmobiles, etc. shall be provided in separate screened area on the multi-dwelling premises.

SECTION 900. - Deleted: R - 3 MANUFACTURED HOME RESIDENTIAL DISTRICT.

SECTION 1000. - Separate: ADULT ORIENTED BUSINESSES.

SECTION 1100 B -1 GENERAL BUSINESS DISTRICT.

Note: See Regulations as applicable from other Sections, e.g., 500, 1500, 1900, etc.

SUBSECTION 1101. PURPOSE.

To provide a district for high density retail sales, business and personal services, business and professional offices, for specialized businesses dependent upon a high volume of pedestrian traffic, and to serve the community.

SUBSECTION 1102. PERMITTED PRINCIPAL USES. – Such as described in 1101.

SUBSECTION 1103. PERMITTED ACCESSORY USES.

Uses incidental to and located on the same lot as the permitted use.

SUBSECTION 1104. CONDITIONAL USES.

Additional uses may be allowed subject to the issuance of a Conditional Use permit as provided in Section 1900 of this Ordinance. Such uses should be compatible with surrounding or abutting districts and should be beneficial to both the residents and the land use growth patterns of the City of Rushford Village.

SECTION 1200. C/I COMMERCIAL / INDUSTRIAL DISTRICT.

Note: See Regulations as applicable from other Sections, e.g., 500, 1500, 1900, etc.

SUBSECTION 1201. PURPOSE.

The C/I Commercial / Industrial District is intended to provide areas suitable for the location of commercial enterprises which require special traffic access considerations due to the nature of use and permit industrial enterprises at standards that will not impair the traffic carrying capabilities of abutting thoroughfares. It is the intent of this District to encourage development that is compatible with surrounding or abutting districts and guide the development of these areas in a manner which will be beneficial to both the residents and the land use growth pattern of the City of Rushford Village.

SUBSECTION 1202. PERMITTED PRINCIPAL USES.

Commercial uses such as, but not limited to:

1202.01. Retail or Wholesale product or supply businesses

SUBSECTION 1203. PERMITTED ACCESSORY USES.

Uses incidental to and located on the same lot as the permitted use.

SUBSECTION 1204. CONDITIONAL USES.

Uses such as, but not limited to, the following may be allowed subject to the issuance of a conditional use permit as provided in Section 1900 of this Ordinance.

1204.01. Agriculture related processing / manufacturing industries.

- 1204.02. Any Clean and Light Manufacturing.
- 1204.03. Warehousing.

SUBSECTION 1205. DISTRICT DEVELOPMENT.

1205.01. The CRV shall develop a Concept Plan for orderly development, including streets for vehicular circulation, parking, loading, unloading, etc. in this District.

1205.02. Any proposed building or use of property within this District shall fit the Concept Plan.

**SECTION 1300 IU - INTERIM USE PERMIT and
MU - MIXED USE DEVELOPMENT.**

Note: See Regulations as applicable from other Sections, e.g., 500, 1500, 1900, etc.

SUBSECTION 1301. PURPOSE OF INTERIM USE PERMIT.

1301.01. An Interim Use Permit may be granted for a temporary use that is considered compatible with permitted uses in a district, but only for a limited period of time.

1301.02. The granting of an Interim Use Permit is subject to the Application and approval of a City of Rushford Village Zoning / Land Use Permit.

1301.03. An Interim Use may include:

1301.03.01. Temporary equipment placement and operations for road construction / reconstruction or other projects that require a staging area.

1301.03.02. A Home Occupation that requires the hiring of employees not residing in the subject home on a temporary basis.

SUBSECTION 1302. PURPOSE OF MIXED USE DEVELOPMENT.

1302.01. Mixed Use Development may be permitted, with two or more different uses of a parcel of land such as residential, general business, commercial / industrial, or with residential uses of different densities as permitted by this Ordinance, when such mixed use can be shown to be in the best interest of existing uses, and when such mixed use is compatible with the City of Rushford Village Comprehensive Plan.

1302.02. Mixed Use Development may be permitted, subject to 1302.1, following an application and public hearing as for a conditional use.

SECTION 1400. [was} Ag District {combined with RR Rural Residential}.

SECTION 1500. GENERAL REGULATIONS.

The purpose of this section is to provide detailed regulations that apply in all City of Rushford Village (CRV) Zoning Districts, relative to permitted and non-permitted uses. Special Conditions may be applied upon recommendation by the Planning and Zoning Commission and approval by the City Council.

SUBSECTION 1501. SCOPE OF REGULATIONS.

1501.01. Except as may otherwise be provided in Section 1600 of this Ordinance, (non-conforming uses of land or structures), all land alteration, all buildings erected hereafter, all uses of land or buildings established hereafter, all exterior or interior structural alterations or structural emplacement, or relocation of existing buildings occurring hereafter shall be subject to all applicable regulations of this Ordinance, including regulations of Zoning Districts, Overlay Districts, and the General Regulations of this Section 1500.

1501.02. No application for a Zoning / Land Use permit or other permit, shall be accepted by the Administrative Official which would authorize the use or change in use of any land or building contrary to the provisions of this Ordinance, or the erection, moving, exterior alteration, enlargement or occupancy of any building or structure designed or intended to be used for a purpose or in a manner contrary to the provisions of this Ordinance. All applications shall be subject to all City of Rushford Village zoning and land use ordinances, and applicable statutes.

1501.03. No Zoning / Land Use Permit shall be issued for a non-conforming structure or use within the City of Rushford Village (See Section 1600).

1501.04. Area Regulations: No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Ordinance, nor shall the density of population be increased in any manner except in conformity with the area regulations as herein provided, nor shall the area of any lot be reduced below the minimum requirements herein established except by Variance granted by the City Council of the City of Rushford Village.

1501.05. A Zoning / Land Use Permit shall require that the Applicant significantly begin construction on the project for which the permit is issued within one (1) year from date of permit issuance and the project must be ready for its permitted purpose within two (2) years from the date of permit issuance.

1501.05.01. Failure to significantly begin construction within one (1) year from date of permit issuance or be ready for its intended purpose within two (2) years from date of permit issuance shall render the Land Use Permit null and void, and shall result in immediate cessation of the work or activity that had been approved under the permit, and the applicant must “button-down” all open activity under said permit. Land Use Permits that are null and void cannot be renewed, instead, the landowner(s) will be required to wait ninety (90) calendar days before he/she/they are allowed to complete a new, full application. If the work commenced under the null and void application is not finished promptly under a new approved application, the City may require amelioration, should the unfinished work constitute a nuisance.

1501.05.02. “Significantly Begin” shall mean the structure must have all footings, sidewalls, and roof on the structure. The Administrative Official shall make a determination as needed, and with the Planning and Zoning Commission, shall recommend Council action.

1501.06. A **Certificate of Occupancy**, if requested, may be obtained from the City Administrative Official.

SUBSECTION 1502. LAND / TOPOGRAPHIC ALTERATION / GRADING and FILLING.

1502.01. A Zoning / Land Use Permit shall be required for land alteration, as described herein. No additional fee shall be required if such land alteration permit is applied for at the same time and in conjunction with another zoning permit, e.g., landscaping for an existing dwelling / building. **Land alteration shall include grading and filling in this Subsection.**

1502.02. Grading and filling and excavations under validly issued construction permits do not require the issuance of a separate Zoning / Land Use Permit for land alteration when necessary for the construction of structures, sewage treatment systems, driveways, public roads and parking areas, and similar facilities that are related to the construction of the structure allowed under that permit.

1502.03. The Land Alteration, Grading and Filling Standards in this Subsection must be incorporated into the issuance of permits for construction of the above mentioned items.

1502.04. Land alteration shall not be permitted to restrict or increase or redirect the natural flow of water or runoff from or onto any public or private property unless such change is approved under such other laws or ordinances as applicable.

1502.05. When the County SWCD Office or other entity with jurisdiction has approved a project such as building ponds, dikes or terracing, the property owner shall promptly provide the City of Rushford Village Zoning Administrator with an official notice of approval and description of the approved project.

1502.06. The following considerations and conditions for Land Alteration, Grading and Filling Permits must be adhered to during the issuance of construction permits, conditional use permits, variances and subdivision approvals. Such Land Alteration, Grading and Filling Permits, will be required for:

1502.06.01. The movement of **more than ten (10) cubic yards of material on steep slopes and shore and bluff impact zones**, subject to Subsection 502 of this Ordinance and applicable state or federal authorities; and

1502.06.02. The movement of **more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones**, or in 1503.05.02, an excavation that exceeds forty thousand (40,000) square feet of area or an area equivalent to 200 feet x 200 feet.

1502.06.03. Grading or filling within any wetland area must meet the applicable requirements of the Minnesota Wetlands Conservation Act.

1502.06.04. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

1502.06.05. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

1502.06.06. Methods to minimize erosion and to trap sediments before they reach any surface water feature must be used.

1502.06.07. Altered areas must be stabilized to meet the applicable erosion control policies of state or federal authorities.

1502.06.08. Grading or filling on steep slopes and in shore and bluff impact zones.

1502.06.08.A. Fill or excavated material must not be placed in a manner that creates an unstable slope;

1502.06.08.B. Plans to place fill or excavated material on steep slopes must be reviewed and approved in writing by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater or greater, and the City shall promptly be provided with said report in writing; and

1502.06.08.C. Fill or excavated materials must not be placed in bluff impact zones.

1502.06.09. Any alterations below the Ordinary High Water Level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103 G.245.

1502.04.10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

1502.06.11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the Ordinary High Water Level, and the height of the riprap above the Ordinary High Water Level does not exceed three (3) feet.

1502.07. Connections to Public Waters: Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

SUBSECTION 1503. EXCAVATION and MINING of MATERIALS and MINERALS, OPEN PITS, IMPOUNDING OF WATERS, INDUSTRIAL MINERALS and METALS.

(Subsection 1503, Amended 06-04-2013 w/FCo #721&736; Summary published 06-13-2013)

1503.01. PUBLIC SAFETY and PURPOSE.

1503.01.01. The purpose of the City of Rushford Village (CRV) for this Subsection on Excavation and Mining is to Promote the Public Safety of the Residents and Visitors of the City of Rushford

Village, Minnesota by Regulating the Excavation of Gravel Pits and Similar Excavations or Ponds, and Requiring the Backfilling of Gravel Pits or Similar Excavations, or Ponds, to Conform to Standards Promulgated by the City Council or **Requiring, in lieu thereof, Perimeter Fencing, which may be a combination of a berm, tree planting, fencing, and include posting for “No Trespassing”**.

1503.01.01.A. Excavation for the purposes of obtaining gravel, sand or similar earth materials from pits or other excavation sites within the confines of the City of Rushford Village, or the intentional ponding of water are hereby declared **to constitute a potential danger** to the inhabitants of the City of Rushford Village **by creating an attractive nuisance to which children are particularly susceptible**.

1503.01.02. The City of Rushford Village (CRV) also intends that this section on excavation and mining will maintain consistency with Fillmore County to (i) protect natural landscapes from excessive excavation and mining activity, (ii) protect water resources, aquifers, streams, and rivers from excessive contamination and appropriation, (iii) minimize soil erosion, (iv) protect agricultural land and farming activity, (v) monitor and control the excavation and mining of industrial minerals and metals, and (vi) minimize land use conflicts.

1503.01.03. From the effective date of this Ordinance and this Subsection, no individual, corporation, firm or other entity, private or public, shall remove any gravel, sand or other similar earth materials from pit sites or similar excavations within the confines of the City of Rushford Village, or cause ponding of water, without first obtaining a permit, upon application, to the City Council of the City of Rushford Village, Minnesota.

1503.01.04. Any Applicant for a permit required pursuant to the terms of this Ordinance shall include in the permit application information sufficient to satisfy the City Council that, during the time period in which the gravel pit or other excavation site will be in active use, or the ponding of water will occur, precautions be taken to avoid dangerous conditions and insure the safety and wellbeing of the inhabitants of the City of Rushford Village.

1503.01.05. **FENCING may be REQUIRED**. The City Council of the City of Rushford Village, Minnesota shall issue a permit for the removal of gravel, sand or other similar earth materials, or for the intentional ponding of water, only upon it being demonstrated to the Council’s satisfaction that the Applicant will either fill the excavation back to the original grade (or to such other grade as the Council deems to be consistent with the public safety) and not leave unattended for any length of time or, in the alternative, provide a chain link or cyclone perimeter fence of sufficient height and durability **to prevent a hazard or dangerous condition**. Such chain link or cyclone fence, and the design and specifications thereof, must be approved by the City Council. (See also 1514.03. and 1503.04. of this Section)

1503.01.06. A permit herein granted shall be subject to revocation by the City Council at any time the Council determines that a good faith effort is not being made by a permittee to assure reasonably safe conditions with respect to the subject matter of this permit, to wit: gravel pits or other excavations. The City Council shall be the agency responsible to determine that certain point in time whereat any particular gravel pit or similar excavation shall have become inactive to the extent that the City Council deems it to be prudent and expedient to require the backfilling or fencing contemplated by the provisions of this Ordinance.

1503.02. CONSISTENCY with FILLMORE COUNTY.

1503.02.01. The City of Rushford Village (CRV) hereby adopts by reference Fillmore County Zoning Ordinance Section 721, as it may be amended from time to time, for the Excavation and Mining of Construction Minerals in addition to the regulations in this Subsection. The most restrictive provisions of CRV or Fillmore County regulations shall apply.

1503.02.02. The City of Rushford Village (CRV) hereby by reference adopts Fillmore County Zoning Ordinance Section 736, as it may be amended from time to time, for the Excavation and Mining of Industrial Minerals and Metals. The most restrictive provisions of CRV or Fillmore County regulations shall apply.

1503.03. DEFINITIONS.

1503.03.01. “**Applicant**” must be either the property owner or mining operator, or both if CRV requires, who will prepare and submit an application to the Administrative Official for the appropriate Zoning / Land Use Permit.

1503.03.02. “**Excavation and Mining**” include but are not limited to (i) any process or method of digging, excavating, mining, extraction, drilling, blasting, tunneling, dredging, stripping, or removing metals, minerals, soils or materials from the land surface or underground, (ii) the processing, washing, cleaning, screening, filtering, sorting, stockpiling and storage of all excavated or mined metals, minerals and materials, and (iii) the removal of all excavated and mined metals, minerals, soils and materials. The terms excavation and mining apply to all activity occurring at excavation or mining sites, including sites identified as quarries and sand pits.

1503.03.03. “**Construction Materials and Minerals**” include natural common rock, stone, aggregate, gravel and sand that is produced and used for local construction purposes, including road pavement, unpaved road gravel or cover, concrete, asphalt, building and dimension stone, railroad ballast, decorative stone, retaining walls, revetment stone, riprap, mortar sand, construction lime, agricultural lime and bedding sand for livestock operations, sewer and septic systems, landfills, and sand blasting. The term “construction materials and minerals” does not include “industrial minerals and metals”.

1503.03.04. “**Existing Construction Excavation or Mining Site**” - To be classified as an existing excavation or mining site for Construction Materials and Minerals, the property owner and/or mining operator must (i) have a current valid Conditional Use Permit to excavate and mine, and (ii) be currently excavating or mining non-industrial materials and minerals at such site.

1503.03.05. “**New Construction Excavation or Mining Site**” - To be classified as a new excavation or mining site for Construction Materials and Minerals, the site must not yet have a current valid Conditional Use Permit to operate.

1503.03.06. “**Industrial Minerals and Metals**” include (i) all natural stone, silica sand, quartz, graphite, diamonds, gemstones, kaolin, and other similar minerals used in industrial applications, but excluding construction minerals, (ii) all petroleum, gases, fluids, (iii) subsurface water from any source related to excavation and mining, and (iv) all metallic minerals, including nickel, tin, silver, titanium, vanadium, cadmium, molybdenum, chromium, manganese, cobalt, copper, zirconium,

beryllium, thorium, uranium, aluminum, radium, tantalum, niobium, gold, lead, platinum, or palladium.

1503.03.07. “**Existing Industrial Excavation or Mining Site**” - To be classified as an existing industrial minerals and metals excavation or mining site, the property owner and/or mining operator must (i) have a current valid Conditional Use Permit to excavate and mine, and (ii) be currently excavating or mining industrial minerals and metals at such site.

1503.03.08. “**New Industrial Excavation or Mining Site**” - To be classified as a new industrial minerals and metals excavation or mining site, the site must not yet have a current valid Industrial Minerals and Metals Conditional Use Permit to operate.

1503.03.09. “**Blasting**” is the use of explosives and blasting agents to loosen, penetrate, move or shatter masses of solid materials, as a part of excavation and mining operations.

1503.04. **CONDITIONAL USE PERMITS (CUP) REQUIRED** for CONSTRUCTION MATERIALS and MINERALS or INDUSTRIAL MINERALS and METALS.

1503.04.01. Application for a New CONSTRUCTION Materials and Minerals CUP shall be made to the City of Rushford Village Zoning Administrator, and may be submitted for review by Fillmore County as part of the CRV Public Hearing process for approval.

1503.04.02. Application for a New INDUSTRIAL Minerals and Metals CUP shall be made to the City of Rushford Village Zoning Administrator, and may be submitted for review by Fillmore County as part of the CRV Public Hearing process for approval.

1503.05. **EXCEPTIONS.** No conditional use permit shall be required for:

1503.05.01. **Excavations subordinate to other construction** of any installation erected or to be erected, built, or placed thereon at the same time as or immediately following such excavation, and covering or to cover such excavation when completed are excepted from the provisions of this Subdivision if a permit has been issued for such construction or installation.

1503.05.02. **Excavations not exceeding forty thousand (40,000) square feet** of surface area, including impounding of water in an open pit or pond designed for agriculture purposes, are exempt from the provisions of this Subdivision if a permit has been issued for such construction or installation. (See also 1502. Land Alteration)

1503.05.03. The excavation of earth for essential services or public utility work.

1503.05.04. Excavation used for non-commercial or non-industrial purposes or farming practices on the same property up to one (1) acre.

1503.05.05. Any water used for residential or agricultural use.

1503.06. **PROHIBITED ACTIVITY.**

The following excavation and mining activity is prohibited, and will not be allowed under the terms or conditions of any Construction Materials or Minerals Conditional Use Permit:

1503.06.01. The washing with or application of any chemicals or flocculants to excavated or mined construction materials and minerals except as provided in Fillmore County #721 for Construction Materials or Minerals.

1503.06.02. DISPOSAL of MATERIALS in the FLOOD PLAIN shall meet all applicable regulations and statutes.

1503.07. **ACTIVITIES INCLUDED in CONSTRUCTION MATERIALS and MINERALS CONDITIONAL USE PERMITS.**

1503.07.01. Such **CONDITIONAL USE PERMITS** shall include the related activities of overburden removal, soil boring, blasting, rock crushing, stockpiling, and hauling.

1503.07.02. An **INTERIM USE PERMIT** is required for separate **TEMPORARY** rock crushing activities and/or operation of asphalt and concrete plants not located on the site of an existing rock quarry or sand pit.

1503.08. **SITING and LOCATION REQUIREMENTS.**

Any new or expanded site for excavating or mining construction materials and minerals or industrial minerals or metals must comply with the following siting and location requirements:

1503.08.01. Any new excavation or mining site **shall not exceed an operational area of more than thirty (30) acres in size and a maximum area of fifty (50) acres.**

1503.08.02. Any expansion of an existing excavation or mining site **shall not exceed an operational area of more than thirty (30) acres in size up to a maximum area of fifty (50) acres.**

1503.08.03. For any operational and related activities, there shall be a **one hundred (100) foot setback** from the surveyed boundary lines of any excavation or mining site.

1503.08.04. No excavation or mining site shall be located within **one-thousand (1,000) feet of any existing dwelling** from the surveyed boundary of the excavation or mining site unless the dwelling is owned by the Applicant or landowner of the excavation or mining site.

1503.08.05. No excavation or mining site shall be located within any portion of the shoreland or floodplain district, as indicated on the City of Rushford Village and/or Fillmore County Shoreland Overlay and/or FEMA FIRM maps, whichever is more restrictive.

1503.09. **APPLICATION.**

An application shall be filed with the CRV Zoning Administrator and processed in a manner required for all Construction and/or Industrial excavation or mining Conditional Use Permit Applications, including expansions and any changes for renewals, and shall include the following:

1503.09.01. The Applicant(s) true name and address and proof of ownership or a leasehold interest in the location property.

1503.09.02. A **full description and certified survey** of the location of the land where the pit or excavation or mining is or is to be or is to be maintained, which shall include as a minimum:

1503.09.02.A. The certified survey boundaries as projected for the life of the excavation or mining site.

1503.09.02.B. A map showing all abutting properties and road right-of-ways within one hundred (100) feet of the legal boundaries of the quarry.

1503.09.02.C. A map showing all homes that exist within one thousand (1,000) feet of the legal boundaries of the quarry.

1503.09.03. **Proof of appropriate insurance coverage.**

1503.09.04. Proof of all **required Federal and State licenses and permits**, e.g., when required by the State of Minnesota for approval by the State to impound such waters or to make such excavation or mining as described in the Application.

1503.09.05. **Plans for any known future expansion.**

1503.09.06. **A Proposed Reclamation Plan** (as outlined in 1503.13)

1503.10. **APPLICATIONS** may also be required to **include as applicable** (see also Subsec.1502):

1503.10.01. **Physical Characteristics and Environmental Considerations** - An analysis of the pre-mining conditions at the site, including:

1503.10.01.A. Soil type and depth of topsoil

1503.10.01.B. Hydrology.

1503.10.01.C. Vegetation cover type and species.

1503.10.01.D. Wetlands (soils, vegetation, and hydrology).

1503.10.01.E. Wildlife Habitat.

1503.10.02. A **Mining Operation Plan** to include:

1503.10.02.A. The purpose of the excavation or mining;

1503.10.02.B. A description of the types of materials to be excavated;

1503.10.02.C. The types of processing that will be utilized;

1503.10.02.D. The expected volume of the materials annually and over the lifetime of the use.

1503.10.02.E. The **projected lifetime of the use**, i.e., the estimated time when excavation or mining and removal of materials will begin and be completed.

1503.10.02.F. The **sequence and/or phasing of operations**, as applicable.

1503.10.02.G. **Excavation or mining site plan**, including proposed location on site of all buildings, structures, equipment, location and volume of stockpiles, parking layout and loading/staging areas.

1503.10.02.H. **Location and description of all onsite storage**, including a list of all hazardous materials, including fuel supplies and chemicals that would be stored on site.

1503.11. **CONDITIONS of PERMIT and OPERATIONAL REQUIREMENTS** may include:

1503.11.01. The CRV Council may attach a Statement of Conditions to be issued with the Conditional Use Permit, to which the **Applicant and/or Owner (as applicable) shall be required to be a Signatory which may include a Road Maintenance Agreement**, as well as:

1503.11.02. Provisions such as **proposed fencing, screening, and a sloping plan as necessary** to insure safety, security, or to minimize noise, dust, erosion and other adverse effects of the activity.

1503.11.03. **Bond or other form of Financial Security may be required.** The Council may require the Applicant or owner user of the property on which the excavation or mining is located to post a bond or other form of Financial Security, in such form and sum as the Council shall determine, with sufficient surety running to the City of Rushford Village, conditioned to pay the City of Rushford Village the cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials from any excavation or mining site, the amount of such cost and expense to be determined by CRV or its employee or agents, and conditioned further to comply with all the requirements of this Subdivision and the particular permits, and to pay any expenses the City of Rushford Village may incur by reason of doing anything required to be done by any Applicant to whom a permit is issued. This may include projected costs for the Reclamation Plan and/or a road pavement impact fee, as decided by the CRV Council, to reimburse CRV for all such projected costs. The fee established at the time of application may be reviewed annually with other CRV fees.

1503.11.04. The **Bond or other acceptable form of Financial Security** will be valid and enforceable throughout the excavation or mining operation period and for a period of at least one year following the end or abandonment of excavation or mining. The **CRV will be entitled to claim such Bond or other acceptable form of Financial Security** at any time when there is a failure to meet the required performance criteria.

1503.11.05. **Mining operations shall not detrimentally impact existing water supply wells within two (2) miles** of the mining site which serve as a water supply for agricultural, municipal or recreational uses.

1503.11.06. A **Blasting Activity Plan** (if applicable) that meets all applicable requirements.

1503.11.07. The **proposed Reclamation Plan shall have been approved** by the CRV Planning and Zoning Commission and City Council as a condition of issuing or renewing the conditional use permit.

The CRV Planning and Zoning Commission / Administrative Official or Council (and County, State, or Federal authorities), **may require an Applicant to submit any additional information as deemed necessary, and any other Conditions and/or Operational Requirements may be added to the Conditional Use Permit** which are intended to protect the health, safety, and general welfare of the public and to reduce the adverse impact of the Conditional Use being permitted for the activity described in the Application and this Subdivision, including an environmental assessment worksheet (EAW).

1503.12. **FILING of MAP, PLAT.**

The Council shall require a map or plat of the proposed excavation or mining site to be made and filed with the Application before acting on the same, showing the confines of limits thereof,

together with a plan indicating the topography and overall condition of the site after excavation or mining is completed, including restoration and/or reclamation plans.

1503.13. RECLAMATION of EXCAVATION and MINING SITES.

A property owner and excavation/mining operator applying for a Construction Materials and Minerals and/or Industrial Minerals or Metals Conditional Use Permit will submit a detailed Reclamation Plan identifying all proposed steps that will be taken to return the mining site to its natural condition as much as possible, or a different proposed land use after reclamation activities are completed, and to prevent the occurrence of any adverse environmental effects.

1503.13.01. To the fullest extent possible, the **Reclamation Plan will provide detailed proposals for phased reclamation** of the site during and throughout mining operations and immediately following the end of mining operations. Phased reclamation is best implemented by having no more than thirty (30) acres operational at any given time.

1503.13.02. The **Reclamation Plan map** shall be drawn at a scale of one (1) inch to one hundred (100) feet and shall show the adjacent area within five hundred (500) feet of the proposed excavation, and shall include:

1503.13.02.A. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals,

1503.13.02.B. Location and species of vegetation to be replanted, and,

1503.13.02.C. Location and nature of any structures to be erected as part of the Reclamation Plan.

1503.13.03. The **Reclamation Plan shall include** the following:

1503.13.03.A. A reclamation time schedule,

1503.13.03.B. The method used to plug any exploratory or drill holes,

1503.13.03.C. Method of grading, back filling and contouring the mining site and access road,

1503.13.03.D. Method of waste management and disposal, including liquid and solid wastes and tailings, and

1503.13.03.E. Method of re-vegetation of the site. Top soil and overburden must remain at the excavation site to be used for reclamation.

1503.13.04. If during excavation or mining operations the operator finds the characteristics of the mining area to be different than what was previously determined, **changes may be made in the original reclamation plan by mutual consent** of the operator, the Planning and Zoning Commission, and City Council. Such changes shall preserve, as substantially as possible, the original reclamation plan, and shall also provide for the newly discovered variations in the excavation or mining site.

1503.13.05. **Review and approval of the reclamation plan** may be conducted by a technical evaluation panel comprised of the CRV Administrative Official / Planning and Zoning Commission /City Council, and other applicable officials as follows: County Highway Engineer, and science representatives from the Fillmore County Soil & Water Conservation District (SWCD), Minnesota Department of Natural Resources (DNR), and Minnesota Board of Water & Soil Resources (BWSR).

1503.13.06. **Bond** or other form of **Financial Security** may be required (See 1503.11.03 &.04).

SUBSECTION 1504. STRUCTURES /BUILDINGS /DWELLINGS TO HAVE ACCESS.

1504.01. **ACCESS to PUBLIC STREET or HIGHWAY.** Every structure /building /dwelling hereafter erected or moved shall be on a lot adjacent to and have access to a public street or highway. All accesses and driveways to a structure /building /dwelling must be at a grade and have a surface that can be traversed by an emergency vehicle and be designed with a turnaround so as to permit forward egress from the property.

1504.02. **NEW DRIVEWAY REQUIREMENTS:**

1504.02.01. **Driveway widths:** (Measurements between roadway edges)

TYPE	MAXIMUM FEET	MINIMUM FEET
ONE-WAY	27	12
TWO-WAY	30	24

1504.02.02. **Minimum driveway angle** to City of Rushford Village street or road is between 80 and 100 degrees.

1504.02.03. **Fifty (50) foot landing** is required from the edge of the travel surface of the public street. Slope of driveway must be plus or minus two (2) percent before or after a hill which is on either the driveway or the street, certified by a professional engineer, licensed in the State of Minnesota.

1504.02.04. **Maximum grade of ten (10) percent** which may require the following:

1504.02.04.A. Engineer's Plan view with maximum five (5) foot contours that show the horizontal geometry of the driveway with reference to the existing street and the property that it would serve.

1504.02.04.B. Centerline profile of the driveway from the center of the street to the parking or garage area on the property.

1504.02.04.C. Engineer's professional opinion in writing that the proposed driveway can be safely traveled by emergency vehicles serving the property.

After review of the above submissions, the City's Engineer will provide a recommendation to the Administrative Official and Council concerning the proposed driveway. After approval by the City and construction of the proposed driveway, the landowner's engineer shall provide certification to the City in writing that the driveway was constructed in accordance with the approved plan. **All Engineering fees shall be incurred by the landowner.**

1504.02.05. Driveway shall be constructed so that the outermost edge of the driveway is a **minimum of ten (10) feet from the nearest side lot line.** Where access to a State or County highway is unavailable or cost prohibitive, a **shared driveway may be permitted for a maximum of two (2) dwellings,** as long as the properties served share ownership of the shared portion of the driveway, and that a written agreement for permanent maintenance is part of and recorded with each property deed.

1504.02.06. Minimum distance of driveway from street intersection – the nearest edge of the proposed driveway shall be **at least forty (40) feet from the right-of-way line** of the street / road that is parallel to said driveway.

1504.03. **CULVERTS:** The property owner shall be required to install a culvert in a driveway as deemed necessary by the Planning and Zoning Commission.

1504.03.01. Said culvert (s) shall be appropriate to the driveway width and drainage conditions with a minimum length of sixteen (16) feet long and fifteen (15) inches in diameter.

1504.03.02. The property owner shall be responsible for the purchase, maintenance, and repair of all culvert (s) in their driveway (s).

1504.04. **NEW STREET REQUIREMENTS:** All New Streets in the City of Rushford Village shall be shown on the development plans or plat, when required, and shall meet the following minimum requirements, subject to current engineering specifications and approval by City Engineer, **before the City of Rushford Village may accept dedication of a street:**

1504.04.01. Total Rushford Village street right of way shall be 66 feet.

1504.04.02. 90 degree approach from abutting or intersecting street(s) or highways.

1504.04.03. 50 foot landing at entrance and exit.

1504.04.04. 3 to 1 side slopes, i.e., one (1) foot height to three (3) feet distance.

1504.04.05. Ditches along both sides of the proposed road shall be of sufficient depth and width as deemed appropriate by the City Engineer.

1504.04.06. Grade not to exceed 10 % at any point.

1504.04.07. The center line of the road way shall have not more than a three (3) percent grade to the outside boundaries of the road surface.

1504.04.08. Minimum 28 foot wide roadbed with a minimum of eight (8) inches appropriate crushed rock base seasoned a minimum of two (2) winters and then blacktopped.

1504.04.09. Minimum 24 foot wide driving surface with a **minimum of four (4) inches of bituminous pavement.**

1504.04.10. **Other Streets, Roads, and/or Highways:**

1504.04.10.A. County or State Highways as prescribed by the appropriate authorities.

1504.04.10.B. Collector, Local business, and industrial streets – sixty-six (66) feet.

1504.04.10.C. Rural roads and residential area collector streets – sixty-six (66) feet.

1504.04.10.D. Alleys are not allowed / not permitted.

1504.04.10.E. Dead end streets shall have a cul-de-sac at the closed end having an outside-of-road diameter of not less than 120 feet.

SUBSECTION 1505. REQUIREMENTS for COMMERCIAL VEHICULAR CIRCULATION.

1505.01. TRAFFIC and CIRCULATION.

All Commercial Buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all weather, durable, dust free material and properly drained. Vehicular traffic generated by a Commercial Use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excess traffic through residential areas, particularly truck traffic.

The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the Planning and Zoning Commission who may require such additional measures for traffic control as they may deem necessary, including but not limited to the following: **Directional signalization**, standby turn lanes, illumination, and storage area and distribution facilities within the commercial site to prevent back-up of vehicles on public streets.

1505.02. USE of RIGHT-of-WAY. No area used by motor vehicles other than driveways serving as ingress and egress to the Commercial site shall be located within the public street right-of-way.

SUBSECTION 1506. PARKING AND LOADING REGULATIONS.

1506.01. SCOPE of REGULATIONS. All parking and loading spaces hereafter constructed or maintained shall conform to the provisions of this Subdivision and any other Ordinance or regulations of the City of Rushford Village and all other applicable rules and regulations. For any and all uses or structures not specifically provided for hereunder, such parking and loading spaces shall be determined by the Planning and Zoning Commission and Council.

1506.02. MINIMUM SIZE and NUMBER REGULATIONS. The required parking and loading spaces shall be provided off-street on the premises of each use. Each parking space shall contain a minimum area of not less than three hundred (300) square feet including access drives, a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet. The minimum number of required off-street parking and loading spaces for various uses shall be as provided in this Subdivision. Such required parking and loading spaces shall not be used for storage of goods or vehicles that are inoperable or for sale or rent.

1506.03. PARKING REQUIREMENTS. Off-street parking spaces are required to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. To determine the minimum number of such required parking and loading spaces, the following rules shall govern:

1506.03.01. The parking and loading space requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature, as determined by the Planning and Zoning Commission, City Council, and/or Zoning Board of Adjustment.

1506.03.02. The formula to determine the required number of parking spaces shall be as follows:

1506.03.02.A. **Dwelling Units:** Two (2) parking spaces per family dwelling unit or apartment, except housing for senior citizens which shall provide one (1) parking space automatically, plus in addition, one (1) parking space for every 3 dwelling units;

1506.03.02.B. **Lodging units:** one (1) parking space for each guest or sleeping room or suite;

1506.03.02.C. **Businesses, special care facilities, community facilities, manufacturing facilities,** etc., shall provide the number of parking spaces that can be demonstrated to be adequate based on projected customers, number of residential care units, building capacity,

Table 1506 & 1510		MINIMUM LOT SIZES, SETBACKS, & OFF STREET PARKING (Side Setback includes Driveway)		
ZONING DISTRICT	MINIMUM LOT SIZE in ACRES or SQUARE FT	FRONT SETBACKS	SIDE & REAR SETBACKS from Adjacent Properties	OFF STREET PARKING SPACES
P-A, PROTECTED AG	2.5 Ac	30 feet from R/W	10 feet	As Needed
R-R RURAL RESIDENTIAL	2.5 Ac	30 feet from R/W	10 feet	2 per Family
R-1, Single FAMILY RES.	12,000 sf	30 feet from R/W	10 feet	2 per Family
R-1, 2-FAMILY, DUPLEX	16,000 sf	30 feet from R/W	10 feet	2 per Family
R-2, MULTIPLE FAMILY	+4,000 sf/unit	30 feet from R/W	10 feet	1 per Family Unit
C/I, COMMERCIAL / INDUSTRIAL	15,000 sf or 2.5 acres if no municipal utilities	10 feet from R/W	10 feet, 100 feet from residential	As Needed for Employees, Customers & Deliveries

number of employees, etc., that may be on site at any given time.

1506.03.02.D. **Loading, unloading, and truck parking** shall be part of a commercial / industrial development plan.

1506.04. **REQUIRED SITE PLAN.** A Site Plan or Plat Plan, drawn to scale and dimensioned, is to be provided in compliance with this Ordinance, showing on-site parking and loading spaces, and access drives so located as to minimize traffic congestion and hazards.

1506.04.01. On-site parking and loading facilities shall not be subject to the front yard, side yard, and rear yard regulations for the use in the District in which the parking is located, except that:

1506.04.02. In a B-1 General Business District or C/I Commercial / Industrial District, no parking or loading space shall be located within ten (10) feet of any property line that abuts a highway right-of-way line or any Residential District.

1506.05. **BUFFER FENCE and PLANTING SCREENS.** On-site parking and loading areas near or abutting Residential Districts shall be screened by a buffer fence of adequate design or a planting buffer screen. Plans of such screen or fence shall be submitted for approval as a part of the required site plan or plat, and such fence or landscaping shall be installed as a part of the initial construction of the parking area.

1506.06. **ACCESS.** Parking and loading spaces shall have proper access from a public street or highway. Vehicular access to business and industrial use across residential property in any Residential District shall be prohibited.

1506.07. **LOCATION of PARKING FACILITIES and COMBINED FACILITIES.** Required on-site parking space shall be provided on the same lot as the principal building or use, except that combined or joint parking facilities may be provided for one (1) or more buildings or uses in Commercial / Industrial Districts, provided that the total number of spaces shall equal the sum of the requirements for each building use.

1506.08. **CONSTRUCTION and MAINTENANCE.**

1506.08.01. No driveway or curb cuts in any District shall exceed thirty-five (35) feet in width.

1506.08.02. All parking and loading spaces and access drives shall be an all weather surface, afford adequate drainage and shall have bumper-guards where needed.

1506.08.03. The operator of the principal building or use shall maintain parking and loading areas, access drives and yard areas in a neat and adequate manner.

1506.09. **LIGHTING** shall be reflected away from the public right-of-way and nearby or adjacent Residential Districts.

SUBSECTION 1507. STREET VACATION.

Whenever any street, alley or other public way is vacated by official action of the City Council of the City of Rushford Village, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacated street, alley and henceforth be subject to all appropriate regulations of the extended district.

SUBSECTION 1508. WATER, WASTEWATER, AND STORMWATER.

1508.01. The design and construction of municipal water supply facilities and treatment of all sewage and wastewater shall comply with the City of Rushford Village Ordinances No. 3 and 12, County and State authorities and statutes.

1508.02. Individual or shared wells shall comply with the State of Minnesota or other applicable authority.

1508.03. Individual sewage treatment systems (ISTS) will be constructed, maintained and operated in conformance with State ISTS rules as administered by Fillmore County or other authority.

1508.04. STORMWATER MANAGEMENT / VOLUME CONTROL.

Stormwater management / volume control is required for all land alteration. All developments of two (2) or more lots shall require a Stormwater Management Plan and compliance with all requirements of the MN Pollution Control Agency or any other applicable authority. In order to establish minimum stormwater management requirements and controls to protect and safeguard the

general health, safety, and welfare of the public residing in watersheds within this jurisdiction, the Stormwater Management objectives are as follows:

1508.04.01. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels.

1508.04.02. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality.

1508.04.03. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

1508.04.04. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

1508.04.05. General Performance Criteria for Stormwater Management shall be governed by the MPCA or other applicable authority.

SUBSECTION 1509. DWELLING / GENERAL BUILDING STANDARDS.

1509.01. **DENSITY:** Only one dwelling is allowed per lot unless otherwise permitted in the Zoning District, e.g., a duplex, multiple family dwelling, or temporary dwelling by an Interim Use Permit. All other buildings shall be limited to one principal building per lot.

1509.02. **MINIMUM STANDARDS** shall include:

1509.02.01. Placement on a permanent foundation.

1509.02.02. Potable water systems and sanitary sewage disposal facilities or municipal utilities if accessible in the district.

1509.02.03. Private / separate sleeping quarters, shared gathering space(s), electricity, central heating, and modern indoor plumbing.

1509.03. The **PRINCIPAL BUILDING or DWELLING** must be the first structure placed on each lot. The principal building, if not a dwelling, is defined as that one building necessary to accommodate the permitted or conditional use allowed for that lot.

1509.03.01. All principal buildings or dwellings must be at least **20 feet wide** at the front building line and the length must exceed the width.

1509.04. **DURING CONSTRUCTION of PRINCIPAL STRUCTURE**, any temporary structure or living unit or Manufactured Home may be used as a temporary dwelling only if a permit has been obtained for the principal structure. Within **thirty (30) days after completion** of construction or the occupancy of the principal structure, the temporary structure or living unit or Manufactured Home must no longer be used as a temporary dwelling and must be removed from the lot.

1509.05. ACCESSORY BUILDING, ATTACHED. In the event an accessory building is attached to the principal building, it shall be made structurally a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

1509.06. NO ACCESSORY BUILDING or STRUCTURE in FRONT YARD. No accessory building or structure shall be located in any front yard (any area in front of the dwelling) in any Residential District or Subdivision. This shall not apply to an Ag dwelling that is not part of a Subdivision or Residential District.

1509.07. ACCESSORY BUILDING, DETACHED. A detached accessory building in any residential district shall not exceed twelve (12) feet in side wall height, **shall not occupy more than thirty (30) percent** of the area of any side or rear yard, and shall not be placed less than 10 feet from any side or rear boundary line.

1509.08. LOT COVERAGE is limited to 25% impervious surface. The total pervious surface, including setbacks, is therefore 75%.

SUBSECTION 1510. LOT DIMENSIONS, AREA, and SETBACKS.

1510.01. LOT DIMENSIONS shall be a minimum of 66 feet wide bordering a public street, a minimum width of 100 feet at the front building line, and a minimum depth of 120 feet for a total minimum of 12,000 square feet for a single family dwelling and an additional 4,000 square feet for each additional family unit.

1510.02. SETBACKS for all residential structures and/or buildings shall be a minimum of ten (10) feet from all side and rear lot lines and thirty (30) feet from all front property lines, except that for residential lots that were parcels of record prior to the original effective date of this Ordinance, a new dwelling front may match the front line of neighboring dwellings. SETBACKS for General Business, Commercial / Industrial buildings shall be a minimum of ten (10) feet on all sides.

1510.02.01. The front setback requirements shall be observed on each street side of a corner lot and on each street side of a double-frontage lot.

1510.02.02. Setback from feedlots shall be as defined and regulated by the Fillmore County Feedlot Ordinance, except as limited by this Ordinance,

SUBSECTION 1511. HEIGHT REGULATIONS.

Maximum height for a dwelling is thirty (30) feet, and there is no limit for agriculture buildings or Commercial / Industrial buildings.

SUBDIVISION 1512. SLOPE REGULATIONS.

These slope regulations shall apply to all zoning districts and all building areas as defined herein.

1512.01. Permits shall be issued for building areas, as defined herein, of a maximum slope of twelve (12) percent according to the permitted uses for the zoning district in which the lot is located, providing that size, setback and all other requirements are met for the zoning district.

1512.02. On building areas as defined herein, of more than twelve (12) percent slope, the builder shall submit to the Administrative Official detailed plans provided by a licensed engineer for the building site. The Administrative Official shall submit the plans to the city engineer who shall review the plans and note any discrepancies, forwarding them along with any further recommendations to the city council for approval. This plan shall show:

1512.02.01. A map of the lot showing any existing building, proposed building, access, and lot setbacks.

1512.02.02. Topography of the lot showing any existing contours, rock formations, areas to be graded and proposed contours upon completion.

1512.02.03. Location of the septic system and the well, if required, in compliance with State and Fillmore County authorities.

1512.02.04. That no land is altered to more than 25% slope within twenty (20) feet of a lot line.

1512.02.05. That the building is of a design compatible with the slope of the land, using design skills to make the best use of the site and keeping excavation on surrounding areas to a minimum to preserve natural vegetation, trees and beauty of the surrounding area. The building shall not be built in a natural waterway or on fill or unstable ground.

SUBSECTION 1513. YARD REGULATIONS.

The following requirements qualify or supplement, as the case may be, the District Regulations appearing elsewhere in this Ordinance. Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications, as long as setbacks are met at the building line (Subsection 1510):

1513.01. Open or lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire escapes may extend into a required front or rear yard a distance **not to exceed four (4) feet six (6) inches**.

1513.02. A yard, court or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall not again be used as a yard, court or other open space for another building.

1513.03. **Permitted projections in required yards** - Certain architectural features may project into required yards as follows:

1513.03.01. **In front yards:**

1513.03.01.A. One story bay windows **projecting three (3) feet** or less into the yard, and overhanging eaves and gutters **projecting two and one-half (2 ½) feet** or less into the yard.

1513.03.01.B. A landing place or uncovered porch may extend into the required front yard to a distance **not exceeding six (6) feet**, if the landing place or porch has its floor no higher than

the entrance floor of the building. An open railing **no higher than three (3) feet six (6) inches** may be placed around such place.

1513.03.02. **In side yards:** Overhanging eaves and gutters projecting into the yard for a distance of two (2) inches per foot of required side yard shall be permitted.

1513.03.03. **In rear yards:** One-story bay windows projecting two and one-half (2 ½) feet or less into the yard, and overhanging eaves and gutters projecting two and one-half (2 ½) feet or less into the yard.

SUBSECTION 1514. FENCES or WALLS, VISION CLEARANCE - General Building and Performance Requirements. (Subsection 1514 Amended 11-19-2013; Published 11-28-2013)

1514.01. **FENCES or WALLS in FRONT YARDS:** In any Residential District on any corner lot, no fence or accessory structure or planting shall obstruct vision from the intersection according to MNDot Standards.

1514.02. **FENCES or WALLS in SIDE or REAR YARDS:** A fence or wall up to six (6) feet in height may be placed up to the property line.

1514.03. **FENCE REQUIREMENTS.** Fences shall be permitted in all yards subject to the following:

1514.03.01. **PERMIT REQUIRED:** It is unlawful for any person hereafter to construct or cause to be constructed or erected within the platted areas, residential districts, and subdivisions of the City, any fence without first making an application for and securing a fence permit.

1514.03.02. **Certificate of Survey:** If boundary lines are in question or in dispute, CRV may, in its sole discretion, require that the Application be accompanied by a current certificate of survey providing exact lot dimensions, the location of existing buildings and structures on the lot, and the location of the proposed fence.

1514.03.03. **Location:** All boundary line fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.

1514.03.04. Construction and Maintenance of Fencing.

1514.03.04.A. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare is a public nuisance, and the City shall commence proper proceedings for the abatement thereof.

1514.03.04.B. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.

1514.03.05. **Barbed wire fences and electric fences,** except as specified in this subsection, shall only be allowed in the Protected Agricultural and Rural Residential Districts when related to farming and hobby farms. On farms in other districts, such fencing shall be

allowed when related to farming, but not including electric fences as boundary line fences when abutting platted property.

1514.03.06. All fences shall not obstruct natural drainage.

1514.03.07. **Utility and Drainage Easement:** Fences may be constructed within public and private utility and drainage easements, but only upon application to CRV and consent by CRV, to be issued in its sole discretion. Removal of the fence or a portion thereof for the purpose of CRV utilizing the easement shall be at the property owner's expense, and the City shall not be liable for any damage to the fence that is caused by its access to and use of its easements.

1514.03.08. The **required screening provisions** for residential districts shall supersede, where applicable, the provisions of this Subsection.

1514.04. **COMMERCIAL and INDUSTRIAL DISTRICT FENCES:** All commercial and industrial fences shall be placed within the property being fenced.

1514.04.01. Fences extending across a required front yard or a required side yard which abuts a street on a corner lot shall be at least seventy-five (75) percent open for the passage of air and light and shall maintain the traffic visibility requirements of according to MNDot Standards.

1514.04.02. Business and industrial fences may be erected up to eight (8) feet in height. Fences in excess of eight (8) feet shall require a conditional use permit.

1514.04.03. Fences which are primarily erected as a security measure may have arms projecting into the Applicant's property on which barbed wire can be fastened commencing at a point at least seven (7) feet above the ground.

1514.04.04. The screening provisions for commercial and industrial districts shall supersede, where applicable, the provisions of this Subsection.

1514.05. **SPECIAL PURPOSE FENCES:**

Fences for special purposes and fences differing in construction, height or length may be permitted by the City by issuance of a interim use permit. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which such fence is intended. The City may stipulate the height, location, construction and type of special fence thereby allowed.

SUBSECTION 1515. SIGN REGULATIONS.

All signs hereafter erected or maintained, shall conform with the provisions of this Subdivision and other Ordinances and regulations of the City of Rushford Village, except official, public traffic and street signs which shall conform to applicable State and County regulations.

1515.01. **GENERAL PROVISIONS** for all districts: The following regulations shall apply to all signs hereinafter permitted in all zoning districts.

1515.01.01. Signs shall not be permitted within the public right-of-way or easements.

1515.01.02. Flashing or rotating signs resembling emergency vehicles shall not be permitted in any district. Rotating and/or flashing signs of any kind shall not be permitted.

1515.01.03. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure.

1515.01.04. Any sign that is deteriorated, unsafe or unsightly, shall be removed or repaired by the owner of said sign and/or the owner of the property thereunder.

1515.01.05. The owner, lessee or manager of any ground sign and/or the owner of the land on which the same is located shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which a sign is located.

1515.01.06. Political signs may be permitted for a period of not more than sixty (60) days before and ten (10) days after an election.

1515.02. **SIGNS in RESIDENTIAL DISTRICTS:** No sign shall be erected in any R-1, R-2 or R-3 District except:

1515.02.01. A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area. Such sign may be illuminated as permitted in this Ordinance.

1515.02.02. A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed four (4) square feet in surface area. Such sign shall not be illuminated.

1515.02.03. A temporary sign identifying an engineer, architect, contractor or product engaged in or used in the construction of a building, provided such sign does not exceed four (4) square feet in surface area and is removed prior to the occupancy of the building. Such sign shall not be illuminated.

1515.02.04. One identification sign not to exceed twenty-four (24) square feet in surface area displaying location information for churches, schools, hospitals, nursing homes, clubs, offices, libraries or similar uses. Which sign may be illuminated as permitted.

1515.02.05. Directional, unilluminated signs not exceeding two (2) square feet in surface area, displaying directional information for churches, schools, hospitals, nursing homes, clubs, libraries, or similar uses, excluding office or commercial establishments, provided that each use shall be limited to one such sign per thoroughfare approach.

1515.02.06. Public street identification signs, traffic signs and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.

1515.03. **SIGNS in B-1 GENERAL BUSINESS DISTRICT** may be erected subject to the following provisions:

1515.03.01. The total surface area of all business signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage, ten (10) percent of the building frontage area, or seventy-five

(75) square feet in area, whichever is greater. Such signs may be illuminated as permitted in this Ordinance.

1515.03.02. Advertising sign structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional one hundred (100) feet of lot frontage.

1515.03.03. Such advertising structure may not contain more than two (2) signs per facing, nor exceed fifty-five (55) feet in total length.

1515.03.04. No advertising sign may be erected within one hundred (100) feet of an adjoining Residential District.

1515.03.05. For corner lots, the frontage used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.

1515.03.06. No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above the average grade at the building line, whichever is greater.

1515.03.07. Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed or painted out when such signs are in poor condition .

1515.03.08. Where a sign is illuminated, the source of light shall not be visible from any public right-of-way, and such light shall be directed away from any Residential District.

1515.03.09. No signs shall project more than one (1) foot perpendicular to the building.

1515.04. **SIGNS in the C / I COMMERCIAL / INDUSTRIAL DISTRICT** may be erected subject to the following provisions:

1515.04.01. Advertising sign structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional one hundred (100) feet of lot frontage. Such structures shall not exceed fifty-five (55) feet in length. No advertising sign maybe erected within one hundred (100) feet of any Residential District. Such signs may be illuminated as permitted in this Ordinance.

1515.04.02. Sign lighting shall not be directed toward a public right-of-way or any Residential District.

1515.04.03. The total surface area of all business / industrial signs on a lot shall not exceed three (3) square feet per lineal foot of lot frontage or twenty (20) percent of the building frontage area or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated as permitted in this Ordinance.

SUBSECTION 1516. REGULATIONS ON SCREENING, LANDSCAPING, LIGHTING, STORAGE AND OUTDOOR DISPLAYS.

1516.01. **SCREENING:** All principal and accessory uses, except business signs, which are situated within fifty (50) feet of a Residential District, shall be screened from such District by a wall or fence of the Residential District of not less than ninety (90%) percent capacity and not less than five (5) nor more than seven (7) feet in height above the level of the Residential District property at the district boundary.

Walls or fences of lesser heights or planting screens may be permitted by the Planning and Zoning Commission if the Commission finds that the nature or extent of the use being screened is such that a lesser degree of screening will adequately promote and protect the use and enjoyment of the properties within the adjacent Residential District, or the Commission finds that a screening of the type required by this Ordinance would interfere with the provisions of adequate amounts of light and air to same said properties.

1516.02. **LANDSCAPING:** All exposed ground areas surrounding or within a principal or accessory use including street boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees, or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.

1516.03. **LIGHTING:** All sources of artificial light situated in all District sites shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 1.0 foot candle in or within twenty-five (25) feet of a dwelling nor more than 5.0 foot candles on any other part of the property. "Glare", whether direct or reflected, as differentiated from general illumination, shall not be visible, from beyond the limits of the immediate site from which it originates.

1516.04. **STORAGE – DISPLAYS:** Merchandise which is offered for sale may be displayed beyond the confines of a building in a Non-Residential District, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten (10) percent of the ground floor area of the building housing the principal use, unless such merchandise is of a type customarily displayed outdoors such as garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street.

SUBSECTION 1517. PERFORMANCE STANDARDS: Noise, Odors, Exterior Lighting, Vibration, Smoke, Dust, Fumes or Gases, Open Burning.

In order to insure compliance with the performance set forth below, the City of Rushford Village Council may require the owner and/or operator of any permitted use to have made such investigations and/or tests as may be required to show adherence to the performance standards. Such investigation and/or tests as are required shall be carried out by an independent testing organization selected by the Council. Such investigations and/or testing shall be ordered by the owner operator. The Cost for such investigation and/or testing shall be shared equally by the owner and/or operator and the City of Rushford Village, unless the investigation or tests disclose non-compliance with the performance standards, in which situation the entire costs shall be paid by the owner and/or operator.

1517.01. **NOISE:** At any property line the sound pressure level of noise radiated from a Commercial / Industrial operation shall not exceed the values given in Table 1 herein and MN Rule 7030. The sound pressure level shall be measured with a sound level meter and an octave band analyzer, both of which are manufactured to specifications published by the American Standards Association, Inc., New York, New York. Measurements shall be made using the flat network of the sound level meter.

TABLE 1

FREQUENCY BAND CYCLES	MAXIMUM PERMITTED SOUND LEVEL
20 - 75	72
75 - 150	67
150 - 300	59
300 - 600	52
600 - 1,200	46
1,200 - 2,400	40
2,400 - 4,800	34
OVER 4,800	32

1517.02. **ODORS:**

No odors shall be detectable beyond the limits of the property.

1517.03. **EXTERIOR LIGHTING:** Any lights used for exterior illumination shall direct light away from adjoining property. Glare, weather direct or reflected, such as from floodlights, spot lights or high-temperature processing and as differentiated from general illumination, shall not be visible beyond the limits of the property.

1517.04. **VIBRATION:** No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour.

1517.05. **SMOKE:** The emission of smoke shall be regulated in accordance with provisions of the pollution control agency of the state of Minnesota.

1517.06. **DUST:** The emission of dust shall be regulated in accordance with the provisions of the pollution control agency of the State of Minnesota.

1517.07. **FUMES or GASES:** Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive as may be regulated by State or Federal authorities regarding Industrial Hygiene Standards for maximum allowable concentrations or amounts, order thresholds, exposure limits to substances causing injury to vegetation, dangers of physiological effects, etc. **Detailed plans for elimination of fumes or gases may be required before the issuance of a Zoning /Land Use Permit.**

1517.08. **OPEN BURNING:** Proper permits must be obtained for all open burning. No burn barrel or burning of solid waste is allowed in any District. (See City of Rushford Village Ordinance No. 16)

SUBSECTION 1518. OPEN STORAGE.

1518.01. **REGULATIONS** – All Zoning Districts – The owner and / or operator of the property:

1518.01.01. Shall not store unlicensed and/or inoperable vehicles, appliances, or machinery within sight of a Rushford Village street, County, or State highways, or within sight of neighboring dwellings.

1518.01.02. In Agricultural, Commercial / Industrial Districts, shall limit number of unlicensed and/or inoperable vehicles, machinery or appliances to three (3) unless indoors, in an enclosed structure. In Residential Districts, inoperable appliances or machinery shall not be allowed unless stored in an enclosed structure.

1518.01.03. Shall pile lumber, metals or other similar materials, within sight of neighboring dwellings, public streets / roads and highways, in a neat manner and off the ground at least six (6) inches.

1518.01.04. Wood piles for the use of heating, may be piled on the sideyard of the property if there is no entrance to the back of the dwelling. Wood piles for the use of heating, if piled outside, shall not total more than six (6) cords nor shall any pile exceed five (5) feet in height.

SUBSECTION 1519. JUNK YARD, SALVAGE YARD, OR RECYCLING CENTER.

1519.01. A junk yard, salvage yard or recycling center shall operate only as an Interim Use and only in the C/I Commercial / Industrial District.

1519.02. As a condition, prior to issuance of an Interim Use Permit, the owner and/or operator of such yard or center shall be required to obtain and thereafter keep up to date all required licenses and permits that may relate to the operation of such yard or center.

1519.03. The owner and/or operator shall comply with the performance standards as set forth in Subdivision 1517 of this Ordinance and shall take necessary measures to control pests in order to prevent any threat to the health and safety of all persons or animals that may be affected.

1519.04. The owner and/or operator shall not allow any dumping of, or storage of toxic and hazardous wastes on the property.

1519.05. Screening of such yard or center shall be required unless such yard or center is isolated and is not visible from Village Roads, County, State or Federal Highways and from adjoining properties.

1519.06. A junk yard, salvage yard or recycling center shall comply with all other applicable provisions of this Ordinance and all other applicable laws, rules and regulations.

SUBSECTION 1520. SOLAR ENERGY SYSTEMS.

(Subsections 1520 & 1521 Approved 09-20-2011; Summary published 10-24-2011)

1520.01. **PURPOSE.** This Subdivision establishes the regulations relating to the installation and operation of public and private Solar Energy Systems within the City of Rushford VILLAGE (CRV), Solar Energy Systems are a permitted accessory use in all zoning districts, subject to the following standards.

1520.02. **PROCEDURES – PERMIT APPLICATION.** All systems require a zoning / land use permit with a full description and specifications.

1520.02.01. The Application for all Solar Systems shall include the following as a minimum requirement:

1520.02.01.A. The name(s) of project Applicant.

1520.02.01.B. The name(s) of the project owner.

1520.02.01.C. The legal description and address of the project.

1520.02.01.D. The parcel number of the project.

1520.02.01.E. A description of the project including: number, type, generating capacity, height, length, and width dimensions, and means of interconnecting with the electrical grid, if applicable.

1520.02.01.F. Site layout, including the location of property lines, wind turbines or other renewable energy source or generator, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

1520.02.01.G. UL listing, Engineer's certification, and/or manufacturer's specifications for system and installation that meets applicable statutes, and to insure that no glare from the solar system affects neighbors, street or highway traffic.

1520.02.01.H. Documentation of land ownership or legal control of the property.

1520.02.01.I. Any and/or all other renewable energy sources or generators that are related to or part of project.

1520.02.02. A **public hearing and /or written notice**, to landowners of properties within 500 feet of the site on which the solar energy system is to be located, shall be required as follows:

1520.02.02.A. For solar energy systems in a **business, commercial and/or industrial district**:

a. **Solar systems to generate 40 kW or more shall require a public hearing.**

b. **Solar systems to generate less than 40 kW shall require written notice by First Class to all landowners of properties within 500 feet**, giving said landowners fifteen (15) days to comment in writing and/or to be heard at a regular Council meeting. **Said mailing is deemed effective if sent by First Class mail to the last known address of the landowner and not returned**, and shall not be by certified mail unless required by statute.

1520.02.02.B. For **solar energy systems in all other districts**:

a. Solar systems to occupy **more than 350 square feet or to generate 7 kW or more shall require a public hearing.**

b. Solar systems to occupy less than 350 square feet and to generate less than 7 kW shall require written notice by First Class mail to all landowners of properties within 500 feet, giving said landowners fifteen days (15) to comment in writing and/or to be heard at a regular Council meeting. Said mailing is deemed effective if sent by First Class mail to the last known address of the landowner and not returned, and shall not be by certified mail unless required by statute.

1520.03. **HEIGHT** of building or roof-mounted Solar Energy Systems shall not exceed ten (10) feet above the highest portion of the building.

1520.04. **LOCATION WITHIN LOT.** Solar Energy Systems must meet the accessory structure setback for the zoning district and must not exceed the maximum allowable percentage of impervious surface lot coverage.

1520.04.01. **Roof-mounted Solar Energy Systems.** In addition to the building setback, the collector surface and mounting devices for roof-mounted Solar Energy Systems that are parallel to the roof surface shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. The collector and racking for roof-mounted systems that have a greater pitch than the roof surface shall be set back from all roof edges by at least two (2) feet. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

1520.04.02. **Ground-mounted Solar Energy Systems.** Ground-mounted Solar Energy Systems may not extend into the side-yard or rear setback when oriented at minimum design tilt.

1520.04.03. **Large Ground-mounted Systems.** The NRC Ground-mounted Solar Energy Systems that result in the creation of one (1) or more acres of impervious surface or are a commercial solar system require application for an Interim Use Permit.

1520.05. **APPROVED SOLAR COMPONENTS.** Electric Solar Energy System components must have an Underwriters Laboratory (UL) listing.

1520.06. **COMPLIANCE WITH STATE ELECTRIC CODE.** All Solar Energy Systems, system components, and installations shall comply with the Minnesota State Electric Code.

1520.07. **UTILITY NOTIFICATION.** No grid-interconnection for a Solar Energy System shall be installed until the owner has provided evidence to the Zoning Administrator that the owner has notified the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

1520.08. **NEIGHBORING PROPERTY NOTIFICATION.** No owner, occupier or person in control of property shall allow vegetation or structures to be placed or planted so as to cast a shadow on a Solar Energy System which is greater than the shadow cast by a hypothetical wall ten (10) feet high located along the boundary line of said property between the hours of 9:30 a.m. and 2:30 p.m. Central Standard Time on December 21st. This standard shall not apply to vegetation or structures which cast a shadow upon the Solar Energy System at the time of installation of said Solar Energy System or to vegetation existing at the time of installation of said Solar Energy System. Said existing vegetation shall be allowed to mature, and if destroyed or irreparably damaged, may be replaced.

SUBSECTION 1521. WIND ENERGY CONVERSION SYSTEMS (WECS).

1521.01. **PURPOSE.** This Subdivision establishes the regulations relating to the installation and operation of public and private Wind Energy Conversion Systems (WECS) within the City of Rushford Village (CRV), which are not otherwise subject to siting and oversight by the State of Minnesota under the Minnesota Power Plant Siting Act (MS 116C.51-116C.697.)

1521.02. **PROCEDURES – PERMIT APPLICATION.** Public and/or private WECS, based upon physical total height or KW, require a CRV Zoning / Land Use Permit, which shall be applied for and reviewed under the established procedures, except where noted below. **A public hearing is required with notice to landowners within 500 feet.**

1521.02.01. The **Application for all WECS** shall include the following information:

- 1521.02.01.A. The name(s) of project Applicant.
- 1521.02.01.B. The name(s) of the project owner.
- 1521.02.01.C. The legal description and address of the project.
- 1521.02.01.D. The parcel number of the project.

1521.02.01.E. A **description of the project** including: number, type, name plate generating capacity, tower height, rotor diameter, total height of all wind turbines, and means of interconnecting with the electrical grid.

1521.02.01.F. **Site layout**, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.

1521.02.01.G. **UL listing**, Engineer's certification, and/or manufacturer's specifications for system and installation that meets applicable statutes.

1521.02.01.H. **Mitigation plan**, in reference to public utilities for construction and decommissioning.

1521.02.01.I. Documentation of **land ownership or legal control** of the property.

1521.02.01.J. Any and/or **all other renewable energy sources or generators** that are related to or part of project.

1521.02.02. The **Application for Commercial WECS** shall also include the following:

1521.02.02.A. The latitude and longitude of individual wind turbines.

1521.02.02.B. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other WECS within ten (10) rotor diameters of the proposed WECS.

1521.02.02.C. Location of wetlands, floodplain, shoreland, sensitive natural features, scenic, and natural areas, including bluffs, within a quarter (1/4) mile of the proposed WECS.

1521.02.02.D. FAA Permit Approval.

1521.02.02.E. Location of all known Communications Towers within two (2) miles of the proposed WECS.

1521.02.02.F. Decommissioning Plan, including a line of credit, bond, cash deposit for one hundred and five (105) percent of total project cost.

1521.02.02.G. Description of potential impacts on nearby WECS and wind resources on adjacent properties.

1521.03. **PROCEDURES – AGGREGATED PROJECTS.** Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, public hearings, reviews and approvals as appropriate. Permits will be issued and recorded separately. Joint applications will be assessed fees as one project. Aggregated projects having a combined capacity equal to or greater than the threshold for State oversight as set forth in MS Statute 1160.691 through 116C.697 shall be regulated by the State of Minnesota.

1521.04. **DISTRICT REGULATIONS.** WECS will be permitted, conditionally permitted, or not permitted based on the generating capacity/height and land use district as established in the Table 21.1. Key: Zoning/Land Use Permit = ZP; Interim Use Permit = IU; Conditional Use Permit = CUP; Not Permitted = NP.

1521.05. **LOCATION REGULATIONS and DESIGN STANDARDS.**

1521.05.01. **Setbacks**, measured from the center of the tower base: [Tri-County Electric requires 2.5 x tower height]

1521.05.01.A. **Commercial WECS:** 1.1 times the total tower height or five (5) times rotor diameter, whichever is greater, from all Wind Turbines, Meteorological Towers and from property lines.

1521.05.01.B. **Micro WECS and Non-Commercial WECS:** 1.1 times the overall height from property lines.

1521.05.01.C. **Neighboring Dwellings:** 1.5 times the total height from all Wind Turbines and

Table 1521.		WECS Generating Capacity /Height & Land Use District			
	MICRO WECS	NON COMMERCIAL WECS	COMMERCIAL WECS	METEOROLOGICAL TOWER	
ZONING DISTRICT	TYPE of PERMIT (See 1521.04)				
P-A, PROTECTED AG	ZP	ZP	NP	NP	
A/R, AG /RESIDENTIAL	ZP	ZP	IU	IU	
R-1, 1&2 FAMILY RES.	ZP	IU	NP	NP	
R-2, MULTIPLE FAMILY	ZP	IU	NP	NP	
B-1, GENERAL BUSINESS	ZP	IU	NP	NP	
C/I, COMMERCIAL / INDUSTRIAL	ZP	ZP	CUP	CUP	

Meteorological Towers (dwelling associated with WECS is exempt).

1521.05.01.D. **Road Right of Ways:** 1.1 times the total height from all Wind Turbines and Meteorological Towers.

1521.05.01.E. **Other right of ways** (railroad, utility lines, gas lines, etc.): 1.1 times the total height from all Wind Turbines and Meteorological Towers.

1521.05.01.F. **Wetlands** USFW types III, IV, and V:

- a. 1.1 times the total height from Micro and Non-Commercial WECS.
- b. Six hundred (600) feet for Commercial WECS and Meteorological Towers.

1521.05.01.G. **Neighboring Accessory Structures**: 1.5 times the total height from all Wind Turbines and Meteorological Towers. (Accessory structures on tower property are exempt).

1521.05.01.H. **Bluffs**:

- a. Micro WECS: One hundred feet (100) to the top of the bluff.
- b. Non-Commercial WECS: Three hundred feet (300) to the top of the bluff.
- c. Commercial WECS: Five hundred feet (500) to the top of the bluff.
- d. Meteorological Towers: Three hundred feet (300) to the top of the bluff.

1521.05.02. **Safety Design Standards**:

1521.05.02.A. For **all WECS**, the manufacturers engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.

1521.05.02.B. **Rotor blades or air foils** must maintain at least sixteen (16) feet of clearance between their lowest point and the ground.

1521.05.02.C. For **all Non-Commercial/Commercial WECS**, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

1521.05.02.D. For **all guyed towers, visible and reflective objects**, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of eight (8) feet above the ground. Visible fencing shall be installed around anchor points of guy wires.

1521.05.03. **Design Standards – Subject to Engineer and/or Manufacturer’s Specifications per location.**

1521.05.03.A. Total **height / kW output**:

a. **Micro WECS**: shall have a total height of less than or equal to forty-five (45) feet and having five (5) kW nameplate generating capacity or less.

b. **Non-Commercial WECS**: shall have a total height between forty-six (46) feet and two hundred (200) feet and having between five (5) kW and ninety-nine (99) kW nameplate generating capacity.

c. **Commercial WECS**: shall have a total height of two hundred (200) feet or more having more than one hundred (100) kW nameplate generating capacity.

1521.05.03.B. All wind turbines, which are part of a commercial WEC, shall be installed with a tubular, monopole, or lattice type tower, Meteorological towers may be guyed.

1521.05.03.C. **All WECS shall be anchored** to objects that have been approved by the manufacturer of the WECS. A statement from a licensed structural engineer shall be submitted to the Planning Department stating that the WECS can be mounted to an alternative structure.

1521.05.03.D. All wind turbines and towers shall be white, *grey* or of a similar tone in color.

1521.05.03.E. Blades may be black in order to facilitate deicing.

1521.05.03.F. Finishes shall be matte or non-reflective.

1521.05.03.G. **Lighting**, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impacts on migrating birds. Red pulsating incandescent lights should be avoided. Exceptions may be made for metrological towers, where concerns exist relative to aerial spray applicators.

1521.05.03.H. All **advertising devices** on site shall comply with Chapter 9. The manufacturer's or owner's company name and logo, relating to the WECS, may be placed upon the nacelle, blades, or the compartment containing the electrical generator, of the WECS. No off site advertising may be placed, attached, or hung upon the nacelle, tower, blades or upon a substation.

1521.05.03.I. All **communications and feeder lines**, equal to or less than 34.5 kV in capacity, installed as part of a WECS shall be buried (where reasonably feasible]. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to Fillmore County authority.

1521.05.03.J. **Solid and Hazardous wastes**, including but not limited to crates, packaging materials, damaged or worn pans, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal regulations.

1521.05.03.K. A Commercial WECS shall be considered a **discontinued use** after one (1) year without energy production, unless a plan is developed and submitted to the Planning Director outlining the steps and schedule for returning the WECS to service.

1521.05.03.L. All WECS and each Commercial WECS shall have a **Decommissioning plan** outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost of removing Commercial WECS shall be estimated by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the WECS and accessory facilities, in the form of a bond, line of credit, or cash in an amount one hundred and free (105) percent of the project cost.

1521.05.03.M. Upon issuance of a Conditional Use Permit, all Commercial WECS shall notify the **Environmental Quality Board**, indicating the project location and details on the survey form specified by the Environmental Quality Board.

1521.05.03.N. All WECS shall comply with Minnesota Rules 7030 governing noise.

1521.05.03.O. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

1521.05.03.P. All WECS shall comply with FAA standards and permits.

1521.05.03.Q. All WECS shall comply with the Uniform Building Code adopted by the State of Minnesota.

1521.06. **INTERFERENCE.** The Applicant shall minimize or mitigate interference with electromagnetic Communications such as radio, telephone, microwaves, or television signals cause by any WECS. The Applicant shall notify all communication tower operators within five (5) miles of the proposed WECS location upon application to the county for permits. No WECS shall be constructed so as to interfere with County or Minnesota Department of Transportation microwave transmissions.

1521.07. AVOIDANCE and MITIGATION of DAMAGES to PUBLIC INFRASTRUCTURE – Applicants shall:

1521.07.01. Identify all county, city or township roads to be used for the purpose of transporting commercial WECS, substation parts, cement, and/or equipment for construction, operation or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authorities prior to construction.

1521.07.02. The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the commercial WECS.

SECTION 1600. NON-CONFORMING USES OF LAND OR STRUCTURES.

SUBSECTION 1601. INTERPRETATION.

1601.01. This Ordinance and the District herein, and any later amendments may create situations where structures, buildings or uses of the land previously permitted may become prohibited, regulated or otherwise restricted. It is the intent of this Ordinance to permit the continuance of non-conforming structures or uses until they are removed.

1601.02. An existing building or premises devoted to a use not permitted by this Ordinance in the District in which such building or premises is located, shall not be enlarged upon, extended, reconstructed or structurally altered, nor be used as grounds for adding other buildings or structures prohibited elsewhere in the same District, except when required to do so by law or Ordinance, unless such use is changed to one permitted in the District in which such building or land is located.

1601.03. If a building or structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

1601.04. Whenever the boundaries of a District shall be changed so as to transfer an area from one District to another District of a different classification, the provisions of this Section shall also apply to any non-conforming use developing as a result of such action.

SUBSECTION 1602. NON-CONFORMING LOTS OF RECORD.

1602.01. Rebuilding on a lot of record for a conforming use must follow current regulations unless otherwise allowed by variance.

1602.02. If in a group of contiguous platted lots under a single ownership, any individual lot does not meet the minimum requirements of this Ordinance, such individual lot cannot be considered as a separate parcel of land for purposes of sale or development.

1602.03. A dimensional Variance for area, width or yard requirements may only be obtained by application and action by the Planning and Zoning Commission, with recommendation to and approval by the Council following a public hearing.

SUBSECTION 1603. OTHER NON-CONFORMING USE and STRUCTURE LIMITATIONS. Any structure or use existing upon the effective date of this Ordinance and which does not conform to the provisions herein may be continued subject to the following conditions:

1603.01. **NON-CONFORMING STRUCTURES.** All dimensionally non-conforming structures that need replacing due to destruction or deterioration shall be allowed to be replaced, restored, or rebuilt as necessary to remain the same as they exist on the effective date of this Ordinance, provided municipal sewer and water services are available or the standards for private sanitary sewer systems can be met as regulated by the MPCA and administered by Fillmore County. Any change beyond the established structural dimensions of each substandard structure shall be in compliance with the setback requirements of this Ordinance.

1603.02. **ABANDONMENT.** A non-conforming use of a structure which has been discontinued for a period of twelve (12) months shall not be re-established, and any future use shall be in conformity with the regulations of this Ordinance. When aware of abandonments, CRV shall notify the County Assessor and shall request that the Assessor notifies CRV in return.

1603.03. **RELOCATION.** A non-conforming use shall not be moved to any other part of the parcel of land upon which the same was conducted upon the effective date of this Ordinance.

1603.04. **INSPECTION.** The Administrative Official may make an annual inspection of all non-conforming uses and make a report to the Council. Such inspection would be limited to observation from a public street. To enter onto private property, government officials normally must either have the owner's permission, or have first obtained a search warrant.

1603.05. **MAINTENANCE.** Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.

SECTION 1700. ADMINISTRATION and ENFORCEMENT.

(Subsection 1700 Amended 11-19-2013; Published 11-28-2013)

PURPOSE: Regulating the Administration and Enforcement of City of Rushford Village land use Ordinances, and ESTABLISHING AND FIXING THE DUTIES OF A CITY PLANNING AND ZONING COMMISSION WITHIN THE CITY OF RUSHFORD VILLAGE, MINNESOTA

**SUBSECTION 1701. ADMINISTRATIVE OFFICIAL /
PLANNING and ZONING ADMINISTRATOR.**

The mayor is hereby authorized and directed to enforce all the provisions of this ordinance. The Mayor may delegate the enforcement of this ordinance to an administrative official, City Clerk, or Planning and Zoning Administrator of the City Rushford Village and supporting staff if deemed necessary, which shall be directly under the control of the mayor, as directed by the City Council. The Administrative Official / Planning and Zoning Administrator shall perform the following duties:

1701.01. For zoning, land use, and any other required permits, examine all Applications pertaining to use of land, buildings or structures, approve same when the Application conforms to the provisions of this ordinance, and inform the City Council in a timely manner of all approved permits. Advise the Council on incomplete Applications or Applications that require additional process steps, and the steps required when action on the approval or denial of a permit Application is not likely to be completed within sixty (60) days of the completed Application date.

1701.02. Keep a record of all Non-Conforming Uses.

1701.03. Notify, in writing, any person responsible for violating a provision of this ordinance, indicate the nature of the violation and ordering the action necessary to correct it.

1701.04. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any action authorized by this ordinance to insure compliance with or to prevent violation of its provisions. When any work has been stopped by the Administrative Official for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed, unless otherwise allowed by the Administrative Official.

1701.05. Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, conditional use and variations.

1701.06. Maintain a current file of all permits, all certificates, and all copies of notices of violations, discontinuance or removal for such time as necessary to insure a continuous compliance with the provisions of this ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

1701.07. Provide technical assistance to Planning and Zoning Commission including, but not limited to, proper notification of meetings and hearings, and receiving appeals for the City Council.

1701.08. Attend such meetings and hearings and participate in such proceedings as the City Council or Planning and Zoning Commission may require.

1701.09. Send such notifications of hearings and findings to the Commissioner of the Department of Natural Resources as are required.

SUBSECTION 1702. ZONING BOARD OF ADJUSTMENT.

1702.01. **CREATION and MEMBERSHIP.** The City Council of the City of Rushford Village shall be the Zoning Board of Adjustment.

1702.02. **POWERS and DUTIES.** The Zoning Board of Adjustment shall have the powers and duties of hearing and deciding, as provided in this ordinance and pursuant to Minnesota Statutes section 462.354 subdivision 2, as amended, and Section 2200 of this Ordinance, regarding appeals or requests in the following cases: This includes the requirement that the City Council, as long as it acts as the Zoning Board of Adjustment, shall make no decision on an appeal or petition until the Planning and Zoning Commission, or a representative authorized by it, has had reasonable opportunity to review and report to the Zoning Board of Adjustment upon the appeal or petition.

1702.02.01. Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this ordinance.

1702.02.02. Request for a variance from the literal provisions of this ordinance in instances where there are “practical difficulties”, to-wit:

1702.02.02.A. The property owner proposes to use the property in a reasonable manner permitted by the ordinance;

1702.02.02.B. The owner’s plight is due to circumstances unique to the property not created by the owner; and

1702.02.02.C. The variance will not alter the locality’s essential character.

If the variance is granted with conditions, those conditions must be directly related to, and bear a rough proportionality to the impact of the variance.

1702.03. PROCEEDINGS of the ZONING BOARD of ADJUSTMENT.

1702.03.01. In exercising the aforementioned powers, the Zoning Board of Adjustment may, so long as this action is in conformity with the terms of this ordinance, reverse or affirm, in whole or in part or may modify the order, requirements, decision or determination as ought to be made, and to that end shall have powers of the administrative officials from whom any appeal is taken.

1702.03.02. The Zoning Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the Mayor and at such other times as the Board may determine. The Mayor or in his absence the Acting Mayor, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

1702.03.03. Hearings by the Zoning Board of Adjustment shall be held within such time and upon such notice to interested persons as provided in this ordinance.

1702.03.04. The Zoning Board of Adjustment shall within sixty (60) days after the hearing make its order deciding the matter and shall serve a copy of such decision upon the Applicant or petitioner by First Class Mail.

1702.03.05. Any party may appear at the hearing in person or by agent or attorney. The Zoning Board of Adjustment is empowered to give oaths to witnesses and to accept the filing of written briefs by the parties. The Board shall make no decision on an appeal or petition until the Planning and Zoning Commission, or a representative authorized by it has had a reasonable opportunity, not to exceed 60 days, to review and inform the Zoning Board of Adjustment upon appeal or petition.

1702.03.06. The Zoning Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, including its findings and decision all of which shall be a public record and filed in the office of the City Clerk.

SUBSECTION 1703. CITY OF RUSHFORD VILLAGE COUNCIL.

1703.01. Since the City of Rushford Village Council is acting as the Zoning Board of Adjustment, all decisions of the Zoning Board of Adjustment are final, subject to the right of the aggrieved Applicant to seek judicial review.

1703.02. The City Council shall have the duties of considering and adopting or rejecting proposed amendments to this ordinance, as provided by law, and establishing a schedule of fees and charges that are reviewed annually by the City Council of Rushford Village.

1703.03. The provisions of this Zoning and Land Use Ordinance, Ordinance No. 5 are subject to any county, state or federal laws which are more restrictive and which override any provisions of this ordinance by law.

SUBSECTION 1704. PLANNING AND ZONING COMMISSION.

The Planning and Zoning Commission is hereby established. The Planning and Zoning Commission shall be the City Planning and Zoning Agency authorized by M.S. 462.354, subd. 1, as it may be amended from time to time. Except as otherwise provided in this ordinance, the Planning and Zoning Commission shall be advisory directly to the City Council.

1704.01. COMPOSITION and TERMS.

1704.01.01. **Composition, Number.** Such Planning and Zoning Commission shall consist of five members, including the Planning and Zoning Administrator / Administrative Official, who are residents of the City. Members shall be appointed by the City Council. In addition, the City Council may select an ex-officio member from among its own members to serve on the Commission as a council liaison to the Planning and Zoning Commission. The ex-officio member shall be a non-voting member who is not counted for quorum purposes. A quorum shall be a majority of the members.

1704.01.02. **Terms.** Of the members of the Commission first appointed, two shall be appointed for the term of one (1) year and two for the term of two (2) years. Their successors shall be appointed for terms of two (2) years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. Terms shall expire each year on December 31. The Administrative Official serves at the discretion of the Council.

1704.01.03. **Compensation.** All members shall be compensated as set by council resolution.

1704.01.04. **Removal.** Members may be removed by the City Council with or without cause by a four-fifths vote of the City Council.

1704.01.05. **Vacancies.** Vacancies during a term shall be filled by the City Council for the unexpired portion of the term.

1704.01.06. **Oath.** Every appointed member shall, before exercising any of his or her duties, take an oath that he or she will faithfully discharge the duties of the office.

1704.02. **ORGANIZATION, MEETINGS, MINUTES, and EXPENDITURES.**

1704.02.01. **Officers.** The Zoning Administrator shall serve as chairperson of the Planning and Zoning Commission. A Secretary may be appointed from among its appointed members for recording minutes, as needed. The Planning and Zoning Commission may create and fill other offices as may become necessary.

1704.02.02. **Meetings.** The Planning and Zoning Commission may hold at least one meeting each month as needed at the time and place as they may fix by resolution, subject to City Council approval and filed with the City Clerk. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, as directed by the City Council or Mayor.

1704.02.03. **Commission Policy on Meetings, Organizational Form and Rules of Order.** Subject to approval by the City Council, the Planning and Zoning Commission shall adopt rules of order or bylaws for the transaction of business, ordering meetings, adopting findings of fact and holding public hearings.

1704.02.04. **Minutes.** Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to approval at the next Planning and Zoning Commission meeting.

1704.02.05. **Expenditures.** No expenditures by the City on behalf of the Planning and Zoning Commission shall be made unless and until authorized by the City Council.

1704.03. **ATTENDANCE.**

Duly appointed members of the Planning and Zoning Commission shall be required to attend no less than half the official meetings of the Planning and Zoning Commission held within a given calendar year unless specifically excused by the Chair of the Planning and Zoning Commission and said excused absences are noted in the minutes. Failure to attend no less than half of the official meetings within a given calendar year, without excuse of the Chair of the Planning and Zoning Commission,

shall be considered as formal notice of resignation from said Planning and Zoning Commission. In addition, failure to attend four-consecutive regular meetings without excuse of the Chair of the Planning and Zoning Commission shall be considered as formal notice of resignation from said Planning and Zoning Commission.

1704.04. POWERS AND DUTIES.

1704.04.01. **Generally.** The Planning and Zoning Commission shall have the powers and duties given to City planning agencies generally by law, including the authority to conduct public hearings as directed by City Council or City policy. The Planning and Zoning Commission also shall exercise the duties conferred upon it by this ordinance.

1704.04.02. **Comprehensive Plan.** It shall be the purpose of the Planning and Zoning Commission to prepare and adopt a comprehensive plan for the physical development of the City, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the City. This plan may be prepared in sections, each of which shall relate to a comprehensive plan program. After the City Council has adopted the comprehensive plan, the Planning and Zoning Commission may periodically, but **at least every five years**, review the comprehensive plan and any ordinances or programs implementing the plan.

1704.04.03. **Means of Executing the Plan.** Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning and Zoning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof, in order that it will serve as a pattern and guide for the orderly physical development of the City and as a basis for judging the timely disbursements of funds to implement the objectives. Means of executing the plan, among other things, shall consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning and Zoning Commission by the City Council.

1704.04.04. **Zoning and Land Use Ordinance.** Pursuant to MN Statute 462.357, subd. 3, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning and Zoning Commission shall review all proposed amendments to the zoning and land use ordinance, conduct public hearings as directed by City Council or City policy, and make recommendations to the City Council concerning zoning and land use ordinance amendments and their relation to the City comprehensive plan and other land use controls. The Planning and Zoning Commission shall report its recommendations to the City Council for action.

1704.04.05. **Conditional Use Permits.** The Planning and Zoning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning and land use ordinance and conduct public hearings as directed by City Council or City policy. The Planning and Zoning Commission shall report its recommendations to the City Council for action.

1704.04.06. **Interim Use Permits.** The Planning and Zoning Commission may make recommendations on all requests for an interim use permit under the terms of the zoning and land

use ordinance and conduct public hearings as directed by City Council or City policy. The Planning and Zoning Commission shall report its recommendations to the City Council for action.

1704.04.07. Subdivision Regulations. The Planning and Zoning Commission may make recommendations about the subdividing of land as prescribed by the Subdivision Ordinance, Ordinance No. 11, and conduct public hearings as directed by City Council or City policy. The Planning and Zoning Commission shall report its recommendations to the City Council for action.

1704.04.08. Zoning Variances. All Applications for variances may be referred to the Planning and Zoning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Zoning Board of Adjustment for its decision, as provided for in MN Statute 462.357, subd. 6, as it may be amended from time to time.

1704.04.09. Official Maps. Pursuant to MN Statute 462.359, subd. 2, as it may be amended from time to time, after adoption of a zoning districts map, a major thoroughfare plan, and a community facilities plan (which may be contained in the City comprehensive plan or adopted separately), the Planning and Zoning Commission, for the purpose of carrying out the policies of the zoning districts map, the major thoroughfare plan, and community facilities plan, may prepare and recommend to the governing body a proposed official map covering the entire municipality or any portion thereof. The official map or maps shall be prepared in sufficient detail to permit the establishment of the future acquisition lines on the ground. In unplatted areas, a minimum of a centerline survey shall have been made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor.

1704.04.10. Appeals to Denials of Zoning, Land Use or Building Permits Based on the Official Map. All appeals to denials of zoning, land use or building permits based on the official map may be referred to the Planning and Zoning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Zoning Board of Adjustment for its decision, as provided for in MN Statute 462.359, subd. 4, as it may be amended from time to time.

1704.04.11. Purchase and Sale of Real Property. Pursuant to MN Statute 462.356, subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning and Zoning Commission shall review all proposed acquisitions or disposals of publically owned interests in real property within the City by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed acquisition or disposal of real property with the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

1704.04.12. Capital Improvements. Pursuant to MN Statute 462.356, subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning and Zoning Commission shall review all proposed capital improvements within the City by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed capital

improvement with the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

1704.04.13. **Comprehensive Plan Amendments.** Pursuant to MN Statute 462.355, subds. 2, 3, as it may be amended from time to time, after adoption of a comprehensive plan, the Planning and Zoning Commission shall review all proposed amendments to the comprehensive plan, hold at least one public hearing, and make recommendations to the City Council regarding the comprehensive plan amendments and their relation to the City comprehensive plan and other land use controls. The Planning and Zoning Commission shall report its recommendations to the City Council for action.

SUBSECTION 1705. STAFF FOR ADMINISTRATION AND ENFORCEMENT.

The City Clerk or Administrator, City Engineer and City Attorney may act as staff for the Planning and Zoning Administrator / Administrative Official, the Zoning Board of Adjustment, and Planning and Zoning Commission and may be required to attend some or all of these meetings. City Staff may provide information as requested regarding Administration and Enforcement. The City Clerk may perform secretarial duties for the Planning and Zoning Commission, the Zoning Board of Adjustment, and City of Rushford Village Council on matters of Administration and Enforcement such as the keeping of minutes, and shall be responsible for the keeping of records.

SECTION 1800. ZONING, LAND USE and other REQUIRED PERMITS.

SUBSECTION 1801. APPLICATION REQUIRED.

1801.01. Except as hereinafter provided, no person, firm or corporation shall construct, erect, alter, repair, replace, demolish or move any building or structure or parts thereof, or engage in land alteration, excavation, change of land use or any other related activity within the corporate limits of the City of Rushford Village without first securing a zoning / land use or other required permit(s) from the City of Rushford Village Administrative Official who shall be the Planning and Zoning Administrator, unless otherwise designated. Applications are also required for municipal water or sewer hookups where applicable, conditional uses, interim uses, rezoning, variances, subdivisions (see also Ordinance #11), appeals, or any other related purpose.

1801.02. All Applications for required permits shall be made to the City of Rushford Village on forms provided by the Village and shall be accompanied by a plan(s) drawn to scale showing the dimensions of the lot or property to be built upon, the size and location of the principal building or structure and accessory building(s) or structure(s) to be erected, and any other applicable detail required for the specific use or change in use. Applications shall contain such other information as may be deemed necessary for the proper enforcement of this or any other ordinance. The Application must be submitted and signed by all landowners to be effective.

1801.02.01. The City may reject as incomplete an Application that does not include information required by the City. The Application will not be considered complete if the required Application fee is not submitted to the City with the Application.

1801.03. **MN 60-day Rule:** The City must approve or deny a permit Application within sixty (60) days of the completed Application date.

1801.03.01. The 60-day time period does not begin to run if the City notifies the Applicant in writing within fifteen (15) business days that the Application is incomplete. The City must also state what information is missing.

1801.03.02. **Extension.** The city may extend the initial 60-day time period (under MN Statute 15.99) by another 60 days (up to a total of 120 days), if, before the end of the initial 60-day period, it notifies the Applicant in writing of its intent to take additional time to consider the Application, reasons for the extension, and anticipated length of the extension. The City may extend the above-referenced 60-day time period if the City has received an incomplete Application or, if the City needs more time to make its decision.

1801.03.02.A. The **written notification of extension** must state the specific reasons for the extension, if incomplete it must state the items required to make the Application complete, and include the anticipated length of time needed for the extension.

1801.03.03. The 60-day time period does not apply to Applications for Subdivision approval. (The Subdivision statute, MN Statute 462.358, subd. 3b, provides its own time periods of 120 days for preliminary plat approval and 60 days for final plat approval).

1801.03.04. The 60-day time period is stopped while other necessary state or federal approvals are being sought, however, the 60-day time period is not extended by the appeal period available from an agency determination of whether to order an Environmental Impact Statement.

SUBSECTION 1802. FEES, CHARGES AND EXPENSES.

1802.01. The City of Rushford Village Council shall establish a schedule of Application fees for zoning / land use permits, conditional use permits, interim use permits, rezoning, subdivisions, variances, appeals or amendments, and other matters pertaining to this Ordinance. The schedule of fees shall include deposits to cover applicable charges and estimated expenses that may be incurred by Rushford Village in processing the Application.

1802.02. The schedule of fees shall be posted in the Office of the Administrative Official and / or the City of Rushford Village Clerk. No zoning / land use permit, permit certificate, conditional use permit, interim use permit, variance, or appeal shall be approved or issued unless or until such fees and deposits for applicable charges and estimated expenses have been paid in full, nor shall any action be taken on any public hearing or proceedings by the Planning and Zoning Commission, Zoning Board of Adjustment and / or Council unless or until all preliminary fees, applicable charges and deposits have been made for estimated expenses or such expenses have been paid in full in accordance with the established procedures as **such fees or deposits are required for a complete Application.**

SUBSECTION 1803. APPROVAL of APPLICATION and ISSUANCE of PERMIT.

1803.01. The Administrative Official may approve and issue the required permit(s) after determining that the building plans and other required information together with the Application comply with the terms of this Ordinance , unless a public hearing or other action is required by the Planning and Zoning Commission, or the Zoning Board of Adjustment and /or Council.

1803.02. Any permits may be issued only for the use or purpose for which such permits are required or permitted by provisions of this Ordinance.

1803.03. **Approval of Application.** If the City grants an approval within 60 days of receiving a written request—and the City documents this—it meets the 60-day time period even if that approval includes certain conditions the Applicant must meet. Subsequently, if the Applicant fails to meet the conditions, the approval may be revoked or rescinded. An Applicant cannot use the revocation or rescission to claim the City did not meet the 60-day time period.

1803.04. The **date of approval** shall be the effective date for the action for which a required permit is issued. The **effective date of a denial** shall be the **First Class mailing date** of said notice. Said mailing is deemed effective if sent by First Class mail to the address shown on the Application that was subject to the denial and shall not be by certified mail unless required by statute.

1803.05. The **action permitted** by a zoning / land use permit shall exhibit substantial progress within one (1) year from the date of permit or such permit shall expire and a new permit shall be required before commencing and/or continuing action. The action permitted by any other required permit, use, or purpose under this Ordinance shall meet all applicable conditions or requirements.

1803.06. **OTHER AUTHORITIES:** The Applicant shall be responsible for all permits and other requirements from all applicable authorities. Failure to do so will void the City of Rushford Village permit. For example, if a feedlot or septic system permit is necessary, it shall be obtained from the Fillmore County Zoning Office and the Applicant shall present a copy to the Rushford Village Administrative Official before issuance of the zoning / land use permit. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

SUBSECTION 1804. CONDITIONS and SAFEGUARDS.

The Planning and Zoning Commission, Zoning Board of Adjustment, and / or Council may prescribe appropriate conditions and safeguards in conformity with this Ordinance as a part of any permit or following a public hearing. (See Section 2000 for Public Hearings)

1804.01. **Denial of Application.** The City must include with the written denial of the Application a list of reasons stating why the Application was denied.

1804.01.01. If the Planning and Zoning Commission or City Council denies an Application, it must state the reasons for denial on the record and provide the Applicant in writing a statement of the reasons for the denial.

1804.01.02. If the written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the Application but before the expiration of the 60-day time period allowed for making a decision under this section.

1804.01.03. The written statement must be consistent with the reasons stated in the record at the time of the denial.

1804.01.04. The written denial must be mailed to the Applicant upon adoption by First Class mail. Said mailing is deemed effective if sent by First Class mail to the address shown on the Application that was subject to the denial and shall not be by certified mail unless required by statute.

SUBSECTION 1805. RESUBMITTED APPLICATIONS.

No Application shall be resubmitted for a period of one (1) year from the date that the Application is denied, except that the Planning and Zoning Commission, Zoning Board of Adjustment, or Council may allow a new Application, if in the opinion of the Commission, Board, or Council, new evidence or a change of circumstances warrant.

SECTION 1900. CONDITIONAL USE and INTERIM USE PERMITS.

SUBSECTION 1901. APPLICATION and PUBLIC HEARING LIMITATIONS.

1901.01. An Application for a Conditional Use and/or Interim Use permit shall be accompanied by such plans and elevations and site plans as prescribed by this Ordinance and the Planning and Zoning Commission. The Application, and other documents relating thereto, shall be presented by the Administrative Official to the Planning and Zoning Commission.

SUBSECTION 1902. FINDINGS for CONDITIONAL USE or INTERIM USE.

No Conditional Use or Interim Use shall be granted by the Planning and Zoning Commission and/or Zoning Board of Adjustment and/or Council unless said Commission and/or Board shall find:

1902.01. That the Conditional Use or Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, and not substantially diminish and/or impair property values within the immediate vicinity.

1902.02. That the establishment of the Conditional Use or Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominate in the area.

1902.03. The adequate utilities, access roads, drainage and other necessary facilities have been or are being or will be provided.

1902.04. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

1902.05. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

SUBSECTION 1903. PARAMETERS for COMMENCING ACTION.

1903.01. **PARAMETERS for CONDITIONAL USE PERMIT:** The Planning and Zoning Commission, Zoning Board of Adjustment, and / or Council shall prescribe parameters within which the action for the Conditional Use shall commence and operate. Failure to commence and operate within the parameters may void the Conditional Use Permit, subject to action by the Zoning Board of Adjustment, and /or Council.

1903.02. **PARAMETERS for INTERIM USE PERMIT:** The Planning and Zoning Commission, Zoning Board of Adjustment, and / or Council shall prescribe a time limit and parameters within which the action for an Interim Use shall commence, operate, and be completed. Failure to commence, operate, or complete such actions within the time limit and parameters shall void the Interim Use Permit.

SUBSECTION 1904. ANNUAL RENEWAL, DISCONTINUED, or CHANGE in INTERIM AND CONDITIONAL USE PERMITS.

1904.01. ALL INTERIM USE PERMITS, including Excavation and Mining sites (Subsection 1503), shall be renewable annually to be in effect for the current calendar year when renewed unless a different period is prescribed by the Planning and Zoning Commission or Council. Interim use permits for excavation and Mining sites shall be reviewed in March and an annual basis.

1904.02. For Conditional Use Permits, annual renewal shall not be required, however continuing use of a Conditional Use Permit may be revoked by the Council if provisions of this Ordinance or conditions of a the permit are violated.

1904.03. Whenever an approved Conditional Use shall discontinue, the owner and / or operator of the land, building or structure subject to said conditonal use shall give written notice, within (30) thirty days of such discontinued use, to the Administrative Official who shall set a reasonable time for removal of unused material, equipment, or a specific structure, e.g., a substation.

1904.04. An Application may be made to change an approved Conditional Use and will require the same process of review and public hearing as for the existing approved Conditional Use.

SECTION 2000. PUBLIC HEARINGS.

SUBSECTION 2001. REQUIRED PUBLIC HEARINGS.

Upon receipt of any Application in proper form for a Conditional Use, Interim Use, Rezoning, Subdivision, Variance, Appeal, or Zoning Ordinance Amendments, the Planning and Zoning Commission, Zoning Board of Adjustment or City Council, as appropriate, shall Administrative Official set a time and place, most often in the Rushford Village Council Chambers, for at least one

(1) public hearing by said Commission, Board or Council and give notice thereof as provided in this Ordinance, or Minnesota Statute, whichever requirements are greater.

SUBSECTION 2002. NOTIFICATION of PUBLIC HEARINGS.

2002.01. **PUBLISHED NOTICE** – Not more than thirty (30) days nor less than ten (10) days in advance of each hearing, a notice of the time, place, and purpose of the hearing shall be published at least once in the official newspaper of the City of Rushford Village.

2002.02. **POSTED NOTICE** – Notice similar to the published notice shall be posted at the City of Rushford Village office and in one other public place in the City of Rushford Village at least ten (10) days prior to the public hearing.

2002.03. **MAILED NOTICE** – Notice similar to the published notice shall be mailed by First Class mail at least ten (10) days plus three (3) days response time before the day of the public hearing to each owner of affected property and property situated wholly or partly within five hundred (500) feet of the property to which the hearing relates. For the purpose of giving mailed notice, the official assessor's current tax records shall be deemed sufficient for the location or certification of ownership of said adjacent properties.

2002.04. **OFFICIAL COPY of MAILED NOTICE and ADDRESSEES.** A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceeding. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with these provisions has been made.

SUBSECTION 2003. REPRESENTATION.

Any person may appear or be represented by an agent or attorney.

SUBSECTION 2004. DECISION and MAILED NOTICE.

2004.01. Unless otherwise provided in this Ordinance and when required by MN Statute, after the public hearing, the Planning and Zoning Commission, Zoning Board of Adjustment and/or Council shall make its decision deciding the matter and serve a copy of such decision upon the Applicant or the petitioner by mail within the statutory timeframe of Minnesota's 60-day rule.

2004.02. Within ten (10) days of any decision and /or action by any authorized body identified in this Subsection, mailed notice must be provided to all effected parties and other parties requesting notice of such decision or action.

SECTION 2100. VARIANCES.

SUBSECTION 2101. CRITERIA for GRANTING VARIANCES.

A variance may be granted only following a public hearing and as permitted by **MN Statute 394.27**, as amended, **Subd. 7. Variances; practical difficulties**:

2101.01. The **ZONING BOARD of ADJUSTMENT** shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities.

2101.01.02. **Variances shall only be permitted** when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. Variances may be granted when the Applicant for the variance establishes that there are practical difficulties in complying with the official control.

2101.01.03. "**Practical difficulties**," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

2101.01.04. **Economic considerations** alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in **MN Statute 216C.06, Subd. 14**, when in harmony with the official controls.

2101.01.05. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. (See also Section 1600 Non-Conforming Uses)

2101.01.06. The **Zoning Board of Adjustment or Council may impose conditions** in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

2101.02. That the variance is the minimum variance which would alleviate the practical difficulties.

2101.03. That the granting of such variance will not, under the circumstances of the particular case, adversely materially affect the health or safety of persons residing or working in the neighborhood of the property of the Applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvement in said zoning district neighborhood, i.e., locality.

2101.04. That granting the variance will not confer on the Applicant any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same zoning district neighborhood.

2101.05. No Variance shall have the effect of allowing, in any District, uses prohibited in the District, permit a lesser degree of flood protection elevation for that area in the Floodplain District, or permit standards lower than those required by MN Statutes or other applicable authority.

SECTION 2200. DUTIES, FUNCTIONS, and PROCEDURES for APPEALS.

SUBSECTION 2201. DUTIES of ADMINISTRATIVE OFFICIALS, PLANNING AND ZONING COMMISSION, ZONING BOARD of ADJUSTMENT and CITY of RUSHFORD VILLAGE COUNCIL.

2201.01. **BOARD DESIGNATION and MEANING OF “CITY”:** The City Council shall serve as the Zoning Board of Adjustments and Appeals. When the term “City” is used below, it shall also mean any representative of the City, including but not limited to its administrative officials, commissions, or other public body that is involved in the issue under consideration.

SUBSECTION 2202. PROCESS and PROCEDURE for FILING an APPEAL:

The Application and administrative process regarding zoning or land use matters before any appeal is subject to the following procedure and requirements.

2202.01. **APPLICATION PROCESS for City Approval and Appeals:** The City must approve or deny within 60 days a written request, also referred to as an Application, relating to zoning, septic systems, or for a permit, license, or other governmental approval of an action related thereto. Applications regarding subdivisions are exempted from this 60 day rule herein described. Although exempt from the 60 day rule, appeals from an action taken by the City regarding a subdivision Application or process shall still be subject to the appeal process here below described.

2202.02. **WHEN APPEAL is AVAILABLE; FILING of an APPEAL:**

2202.02.01. **When Appeal can be Filed.** An appeal shall only be applicable regarding a ruling or decision by the City on an Application for City approval. Opinions and evaluations as they pertain to the impact or result of an Application, or for approval of a process or technology are not subject to the appeal procedure. An appeal from the ruling of the Administrative Official of the City or the City shall be filed by the Applicant or his/her agent with the Administrative Official within thirty (30) days after the mailing of the order being appealed.

2202.02.02. **Time and Manner of Filing an Appeal.** Such Appeals shall be taken within 30 days after the date of postmark of the First Class mailing of the ruling or decision on an Application to the Applicant, said mailing deemed effective if sent First Class mail to the address shown on the Application that was subject to the denial and from which the appeal will be taken. The Applicant's Filing of Appeal shall specify the grounds thereof. The Administrative Official shall forthwith transmit to the Zoning Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

2202.03. **STAY of PROCEEDINGS:**

An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Zoning Board of Adjustment and Appeals, after the notice of appeal is filed, that by reason of

facts stated in the certificate a stay would cause imminent peril to life and property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on Application, and upon subsequent notice to the City.

2202.04. PROCEDURE for FILING an APPEAL:

2202.04.01. The **Filing of Appeal** shall be accomplished by an Application and payment of a fee as established in accordance with Section 1800 of this Ordinance, except that no fee shall be required for any appeal by any officer or bureau of the governing body of the City of Rushford Village when acting in their official capacity.

2202.04.02. The Administrative Official and /or Planning and Zoning Commission shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Zoning Board of Adjustment and Appeals.

2202.04.03. The Zoning Board of Adjustment shall make its decision according to the established City of Rushford Village Appeals Process.

2202.04.04. The Administrative Official and /or Planning and Zoning Commission shall serve a copy of the final order of the Zoning Board of Adjustment upon the Applicant by First Class mail, said mailing is deemed effective if sent by First Class mail to the address shown on the Application that was subject to the denial and from which the appeal will be taken. Such mailing shall not be by certified mail unless required by statute.

SUBSECTION 2203. APPEALS from ZONING BOARD of ADJUSTMENT and APPEALS:

Any person or persons or any legal entity aggrieved by any decision of the Zoning Board of Adjustment and Appeals shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced.

**SECTION 2300. VIOLATIONS, PENALTIES, ENFORCEMENT,
and MANDAMUS PROCEEDINGS**

SUBSECTION 2301. VIOLATIONS.

Violations of conditions and safeguards, when made part of the terms under which any permit or action is approved, shall be deemed a violation of this Ordinance and punishable under this Section 2300 of this Ordinance.

2301.01. When an Ordinance Violation is either discovered by or brought to the attention of the Administrative Official, the Administrative Official shall immediately investigate the situation and document the nature and extent of the violation of the official control.

2301.02. The Administrative Official shall notify the Landowner of Record, of the land on which the suspected violation is located, of the requirements of this Ordinance and all other official controls, and the nature and extent of the suspected violation of these controls. If the structure and / or use is under the construction or development, the Administrative Official may order the construction or development immediately halted until a proper permit or approval is granted. If the construction or development is already completed, then the Administrative Official may by a First Class mailing, either (1) Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) Notify the Landowner of Record to apply for an after-the-fact permit / development approval within a specified period of time not to exceed thirty (30) days.

2301.03. If the Landowner of Record does not appropriately respond to the Administrative Official within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Administrative Official shall upon the lapse of the specified response period notify the Landowner of Record to restore the land to the condition which existed prior to the violation of this Ordinance.

SUBSECTION 2302. COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the Administrative Official. Such complainant shall state fully the causes and basis thereof. The Administrative Official shall record properly such complaint, immediately investigate, and take action as authorized by this Ordinance or refer such complaint to the City Council.

SUBSECTION 2303. NOTICE OF VIOLATION.

2303.01. The Council, may upon receiving a complaint or other notification that this Ordinance is being violated, instruct the Administrative Official to issue a notice by First Class mail to the Landowner of Record, **ordering compliance within a period not to exceed thirty (30) days** of the mailing date of said notice. Said mailing is deemed effective if sent by First Class mail to the last known address of the landowner and not returned, and shall not be by certified mail unless required by statute. **Said compliance period may be shortened if public safety or welfare so requires.**

2303.02. If the owner of record fails to comply with said notice of violation, the Planning and Zoning Commission or Council may order the measures for compliance and bill said owner for the costs. If the owner fails to pay the costs billed, said costs shall be collected according to the terms and conditions of Rushford Village Ordinance No. 2. Regulations for the collection of unpaid services and other charges.

SUBSECTION 2304. PENALTIES and ENFORCEMENT.

2304.01. Any person who shall violate any of the provisions of this Ordinance or who shall fail to comply with any of its requirements or who shall make any false statement in any document required to be submitted under the provisions of this Ordinance, shall be guilty of a Misdemeanor and subject to the maximum penalty for a Misdemeanor in accordance with the Statutes of the State of Minnesota. Each day that a violation continues shall constitute a separate offense.

2304.02. Nothing herein contained shall prevent the City of Rushford Village from taking such other lawful action as is necessary to prevent or remedy any violation.

SUBSECTION 2305. MANDAMUS PROCEEDINGS.

Any resident or group of residents of the City of Rushford Village may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

SECTION 2400. AMENDMENTS TO THE ZONING ORDINANCE.

SUBSECTION 2401. POWERS.

The City of Rushford Village Council, following a public hearing, may on its own motion, or on petition or appeal of an affected property owner or owners, or on recommendation by the Planning and Zoning Commission and reviewed by the Zoning Board of Adjustment:

2401.01. Rezone or change any of the provisions of this Ordinance as to the use of land in any District, or as to the restrictions upon building or structures herein, by amendment to this Ordinance.

2401.02. Amendments not initiated by the Planning and Zoning Commission shall be referred to the Commission for review and further action by the Council shall not occur for a minimum of sixty (60) days, the time allowable for a response from the Commission.

2401.03. The term “Affected Property Owner(s)” (also in Definitions, Section 300) for the purpose of this Subdivision shall mean an owner of property for which an amendment is proposed, an owner of adjoining property for which an amendment is proposed, any person who states in writing to the Zoning Board of Adjustment that he/she/they will be affected by a decision made upon an Application for an amendment and who states facts showing how he/she/they will be affected, or an owner(s) of property annexed or consolidated or to be annexed or consolidated.

SUBSECTION 2402. PROCEDURE, NOTIFICATION, and PUBLIC HEARING.

2402.01. A proposed amendment not initiated by the City of Rushford Village Council shall be filed with the Administrative Official in duplicate, and shall be accompanied by a fee as provided by Section 1800 of this Ordinance. The Administrative Official shall forward one (1) copy to the Zoning Board of Adjustment for study and report to the City Council.

2402.02. The proposed amendment may not be acted upon by the Council until it has received the recommendation of the Planning and Zoning Commission on the proposed amendment or until sixty (60) days have elapsed from the date of reference of the proposed amendment without a report of the Commission.

2402.03. All amendments concerning Floodway and Flood Fringe portions of the Floodplain District must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. (See Section 2000 for Public Hearing)

SUBSECTION 2403. ADOPTION, PUBLICATION, and RECORDING.

2403.02. The City of Rushford Village Council upon receiving the report (s) of the Planning and Zoning Commission and Zoning Board of Adjustment, and without further public hearing, may vote upon the adoption of any proposed amendment or may refer it back to the Planning and Zoning Commission and Zoning Board of Adjustment for further consideration.

2403.02. In considering such recommendations of the Planning and Zoning Commission and Zoning Board of Adjustment, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire City of Rushford Village and for the uses to which the property affected is being devoted at the time, and no change shall be recommended unless it is required for the public good.

2403.03. The proposed amendment shall be effective only by two-thirds (2/3) affirmative vote of all members of the City of Rushford Village Council.

2403.04. The City of Rushford Village City Clerk, as required by MN Statutes, shall be responsible for official publication and recording with the Fillmore County Recorder.

SECTION 2500. VALIDITY.

Should any Section, Subsection or Provision of this Ordinance be declared to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 2600. REPEAL OF CONFLICTING ORDINANCES.

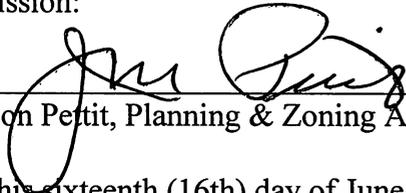
All Ordinances or parts of Ordinances in conflict with this Zoning Ordinance, or inconsistent with provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 2700. EFFECTIVE DATE.

This Amended Ordinance shall become effective and in force from and after its public hearing held on the seventeenth (17th) day of February 2015, continued on the seventeenth (17th) day of March 2015, its approval and publication as noted below.

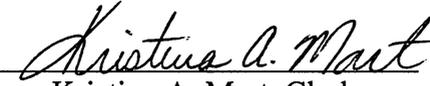
Recommended by the Planning and Zoning Commission:

Date: 6/16/2015


Jon Pettit, Planning & Zoning Administrator

Adopted by the City Council of Rushford Village this sixteenth (16th) day of June, 2015.

APPROVED: 
Gordon Johnson, Mayor

ATTEST: 
Kristina A. Mart, Clerk

EFFECTIVE on PUBLICATION: July 16, 2015 in the Tri-County Record

EXHIBIT A

OFFICIAL SUMMARY OF ORDINANCE NO. 5,
AN ORDINANCE AMENDING CITY OF RUSHFORD VILLAGE ORDINANCE NUMBER 5
REGARDING ZONING AND LAND USE, SAID AMENDMENTS REGARDING SECTIONS
100-800, 1100-1600, & 1700-2700

The City Council of the City of Rushford Village, following a public hearing at its regular meeting on February 17, 2015, continued on March 17, 2015 and continued again on June 16, 2015 as significant changes were completed. Therefore, has been approved as of June 16, 2015, the City of Rushford Village Ordinance No. 5 amending and combining its ZONING and LAND USE Ordinance in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700.

WHEREAS, the City Council of the City of Rushford Village had amended all except the final Sections 1800-2700 of Ordinance No. 5 after several public hearings since 2010, established a Planning and Zoning Commission as authorized by M.S. 462.354, subd. 1 in 2013, amended the City of Rushford Village Comprehensive Plan in 2014, and

WHEREAS, the City Council of the City of Rushford Village has by this Resolution 2015-06-16.01 amended all of Ordinance No. 5, its ZONING and LAND USE Ordinance, combining all sections in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700, and

WHEREAS, in total, the City of Rushford Village ZONING and LAND USE Ordinance, Ordinance No. 5 establishes districts and comprehensive Zoning and Land Use regulations for the purpose of safeguarding the health, safety, order, convenience, prosperity and general welfare, by regulating the issuance of zoning and land use permits according to regulations for the zoning districts.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF RUSHFORD VILLAGE, that the amended sections in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700 of its ZONING and LAND USE Ordinance, Ordinance No. 5, are hereby amended and effective upon publication of this Summary Ordinance.

A printed copy of this ordinance is available for inspection by any person at the office of the city clerk during normal business hours, and at the community library, if there is one, or if not, in any other public location which the council designates.

CITY OF RUSHFORD VILLAGE
Approved: 
Gordon Johnson, Mayor

Attest: 
Kristina A. Mart, Clerk

Published as summary of Amended Ord. No. 5 Sections 100-800, 1100-1600, & 1700-2700 in Tri-County Record on July 16, 2015.

City of Rushford Village

Extract of Minutes and Resolution 2015-06-16.01: Following the Public Hearing as continued February 17, 2015 on Amendments to Ordinance No. 5, ZONING and LAND USE Ordinance, Sections 100-800, 1100-1600, & 1700-2700

The City Council of the City of Rushford Village, following a public hearing at its regular meeting on February 17, 2015, continued on March 17, 2015 and continued again on June 16, 2015 as significant changes were completed. Therefore, has been approved as of June 16, 2015, the City of Rushford Village Ordinance No. 5 amending and combining its ZONING and LAND USE Ordinance in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700, and this Resolution 2015-06-16.01 as the summary publication; the full text is available for public inspection at the city office, and

WHEREAS, the City Council of the City of Rushford Village had amended all except the final Sections 1800-2700 of Ordinance No. 5 after several public hearings since 2010, established a Planning and Zoning Commission as authorized by M.S. 462.354, subd. 1 in 2013, amended the City of Rushford Village Comprehensive Plan in 2014, and

WHEREAS, the City Council of the City of Rushford Village has by this Resolution 2015-06-16.01 amended all of Ordinance No. 5, its ZONING and LAND USE Ordinance, combining all sections in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700, and

WHEREAS, in total, the City of Rushford Village ZONING and LAND USE Ordinance, Ordinance No. 5 establishes districts and comprehensive Zoning and Land Use regulations for the purpose of safeguarding the health, safety, order, convenience, prosperity and general welfare, by regulating the issuance of zoning and land use permits according to regulations for the zoning districts.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF RUSHFORD VILLAGE, that the amended sections in three parts, Part I: Sections 100-800, Part II: 1100-1600 and Part III: 1700-2700 of its ZONING and LAND USE Ordinance, Ordinance No. 5, are hereby amended and effective upon publication of a summary as hereinafter provided, which the City Council has determined would clearly inform the public of the intent and effect of the ordinance. The Summary Ordinance shall be published as set forth on Exhibit A annexed hereto and Incorporated herein by reference.

Said motion was duly made by Overland, seconded by Petersen. After full discussion thereon, a vote was taken, and

The following voted in favor of the above Resolution: (4)

The following voted against the Resolution: (0)

The following abstained: Zero (0)

Whereupon, said Resolution was declared duly passed and adopted.

Approved: 
Gordon Johnson, Mayor

Attest: 
Kristina A. Mart, Clerk

City of Rushford Village
43038 State Hwy 30
Rushford, MN
55971