

Master Plan Update

*Reexamination Report and*

*Land Use Plan Element Amendment*

Town of  
**Guttenberg**

Town of Guttenberg Joint Planning/Zoning Board  
in consultation with  
Phillips Preiss Shapiro Associates, Inc.

Adopted June 15, 2009

Master Plan Update

*Reexamination Report and  
Land Use Plan Element Amendment*

**Town of Guttenberg**

Hudson County, New Jersey

**Town of Guttenberg Joint Planning/Zoning Board**

in consultation with

**Phillips Preiss Shapiro Associates, Inc.**

434 Sixth Avenue  
New York, New York 10011

125 Half Mile Road, Suite 200  
Red Bank, New Jersey 07701

Adopted June 15, 2009

The original of this report was signed and  
sealed in accordance with N.J.S.A. 13:41-1.2

Paul Grygiel

New Jersey Professional Planner License # 5518

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## *Reexamination Report*

### **I. Introduction**

The Municipal Land Use Law of the State of New Jersey mandates at N.J.S.A. 40:55D-89 that the governing body shall, at least every six years, provide for a general reexamination of its master plan and development regulations by the planning board, which shall prepare and adopt by resolution a report on the findings of such reexamination.

There are five elements which the reexamination report must include:

- 1) A section outlining the major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report.
- 2) A section describing the extent to which such problems and objectives have been reduced or have increased subsequent to that date.
- 3) A section discussing the extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection,

- A new zoning district was recommended for the *waterfront* adjacent to the existing townhouse development, which would reflect the existing development patterns in the immediate area.
- Businesses that draw from the local community were recommended for the Town's *neighborhood-oriented commercial districts*, with professional office and residential uses above the first floor.
- *Automobile-business related uses* were recommended to be limited to the commercial zone along Kennedy Boulevard, as opposed to throughout the Town where some such uses currently are located.
- The long-term value of the *light industrial* uses scattered throughout Guttenberg was deemed to be in their redevelopment potential, as the number of jobs located in such buildings has decreased.

A number of more detailed recommendations were provided in the Land Use Plan Element, which can be summarized as follows:

- Modifications to the use and bulk regulations in the existing R-1 zone, including allowing multi-family residential in the district at densities up to 80 units per acre on lots with a minimum area of 10,000 square feet.
- Creation of a new "mid-rise residential" district on the west side of Boulevard East with a maximum building height of 100 feet.
- Creation of a new "waterfront residential" district encompassing the portion of the Town on the east side of River Road, with regulations that reflect the existing townhouse development in that area.
- Modifications to the regulations of the existing C zone, such as prohibiting automobile-oriented commercial uses, encouraging mixed-use development and reviewing sign regulations.
- Creating a new "boulevard commercial" district for the east side of Kennedy Boulevard that would allow automobile-oriented uses as well as those uses permitted in the amended C zone.

### **III. Current Status of Problems and Objectives Set Forth in the 2003 Master Plan Update**

This chapter examines the extent to which there have been significant changes in the policies and objectives forming the basis for the 2003 Master Plan Update. Although some of the issues identified in the preceding chapter remain valid today, the status of certain policies and objectives has changed. The current status of the major problems and objectives in the 2003 Master Plan Update is outlined below:

- *One- and two-family development* remains appropriate in most locations throughout the Town.

**Table 1: Estimated Population, Town of Guttenberg, 2003 to 2007**

Year	Residents	Change	Percent Change
2003	11,037	—	—
2004	10,986	-51	-0.46%
2005	10,866	-120	-1.09%
2006	10,692	-174	-1.60%
2007	10,601	-91	-0.85%
Change, 2003 to 2007		-436	-3.95%

Source: State of New Jersey, Department of Labor and Workforce Development

**Table 2: Residential Building Permits Issued, Town of Guttenberg, 2003 to 2008**

Year	1&2 Family	Multifamily	Mixed-Use	Total
2003	<i>Breakdown by unit type not available</i>		20	
2004	11	0	4	15
2005	7	0	2	9
2006	6	36	10	52
2007	12	40	0	52
2008*	4	39	0	43
Total	40	115	16	191

\*2008 figures through November

Source: State of New Jersey Department of Community Affairs, Division of Codes and Standards

**Table 3: Residential Demolition Permits Issued, Town of Guttenberg, 2003 to 2008**

Year	1&2 Family	Multifamily	Mixed-Use	Total
2003	<i>Breakdown by unit type not available</i>		1	
2004	6	0	0	6
2005	1	0	0	1
2006	7	5	1	13
2007	17	4	0	21
2008*	6	16	0	22
Total	37	25	1	64

\*2008 figures through November

Source: State of New Jersey Department of Community Affairs, Division of Codes and Standards

Since the 2003 Master Plan was adopted, there have been other governmental actions that relate to Town land use policies and objectives.

At the local level, Resolution # 107-2008 of Guttenberg's Mayor and Council authorized retaining a licensed Professional Planner "to assist the Joint Planning/Zoning Board of the Town of Guttenberg to identify appropriate areas for mixed use, mid-rise residential and high-rise residential uses" in certain areas of the Town. The Mayor and Council indicated that the purposes of reviewing these areas include stimulating proper growth and improving the Town's economic foundation. The findings of this investigation are included in the attached Land Use Plan Element Amendment.

- Limited changes are proposed to the boundaries and regulations of the **Low Density Residential district**. Most of the area currently located in the R-1 zone should remain in this district. The exceptions would be the limited areas proposed to be placed in other zone districts. Other changes discussed in the Land Use Plan Element Amendment include allowing commercial uses only on lots with frontage on Palisade Avenue or Park Avenue, permitting multi-family residential on lots with a minimum area of 10,000 square feet and allowing increased height for multi-family residential on larger sites.
- A new **Waterfront district** is proposed to encompass the existing townhouse development and other properties on the east side of River Road, with regulations that reflect the conditions in the existing townhouse complex.

Some additional zoning changes are recommended as well. These include potential amendments to the Town's off-street parking regulations and new possible zoning regulations for telecommunications equipment and satellite antennas. Detailed recommendations are included in the attached Land Use Plan Element Amendment.

#### **VI. Recommendations of the Planning Board Concerning the Incorporation of Redevelopment Plans into the Land Use Element and Local Development Regulations**

In 1994, the Municipal Land Use Law in New Jersey was amended to include, as part of the Master Plan Reexamination report, recommendations of the Planning Board concerning the incorporation of redevelopment plans (adopted pursuant to the Local Redevelopment and Housing Law of 1992) into the land use element, and accompanying changes to the development regulations. The Local Redevelopment and Housing Law (LRHL) affords municipalities the authority to designate areas "in need of redevelopment," provided they meet specific statutory criteria, as well as to prepare and implement redevelopment plans for such areas.

There may be some locations within Guttenberg that could qualify as redevelopment areas. Consideration should be given to investigating particular sites or focused areas that clearly have characteristics such as dilapidated or obsolete buildings, faulty arrangement or design, deleterious land uses or other factors that "are detrimental to the safety, health, morals, or welfare of the community" as required by the LRHL. These could include former industrial sites or other non-residential properties. For example, there are some parcels located within the block bounded by 68th and 69th Streets and Park Avenue and Broadway that may meet one or more of the statutory criteria for designation as an "area in need of redevelopment" due the existing conditions on these lots. A formal investigation would need to be undertaken to determine whether any such areas actually meet the statutory criteria set forth in the LRHL.

## *Land Use Plan Element Amendment*

### **I. Introduction**

The 2003 Guttenberg Master Plan Update included a Land Use Plan Element, which outlined existing conditions at the time and set forth some recommended changes to the Town's Zoning Ordinance. These recommendations were not implemented by the Mayor and Council through zoning amendments or other actions. While some of these recommendations remain valid, others should be reconsidered.

More recently, Resolution # 107-2008 of Guttenberg's Mayor and Council authorized the retention of a licensed Professional Planner "to assist the Joint Planning/Zoning Board of the Town of Guttenberg to identify appropriate areas for mixed use, mid-rise residential and high-rise residential uses" in certain areas of the Town. The Mayor and Council indicated that the purposes of reviewing these areas include stimulating proper growth and improving the Town's economic foundation.

This Land Use Plan Element Amendment addresses both of the above topics. For the reasons set forth in the remainder of this report, it is recommended that the Town of Guttenberg Master Plan be amended as set forth below.

#### Other Areas

Resolution # 107-2008 did not limit the areas of investigation. Two additional locations that are appropriate for consideration for zoning changes are Park Avenue and Palisade Avenue.

The segment of Park Avenue in Guttenberg is developed with buildings that are one to three stories in height. There are some mixed-use buildings with ground floor commercial space and upper floor residential, as well as some entirely residential structures.

Palisade Avenue in Guttenberg is somewhat similar to Park Avenue in terms of the height of buildings, although residential uses are more predominant on Palisade Avenue. The lot pattern is different as well, as the boundaries of lots along Palisade Avenue are generally side lot lines for parcels fronting on the intersecting east-west streets. There is one existing eight-story residential building on the north-west corner of Palisade Avenue and 68th Street. Unlike all of the other streets listed above, Palisade Avenue is a one-way street, running in a southbound direction through Guttenberg.

#### **B. Proposed Changes**

Allowing greater building height would address the objective set forth by the Mayor and Council of promoting appropriate growth and increasing the tax base. However, there are impacts from taller buildings including shadows, traffic and change in character. Therefore, additional permitted building heights should be limited to appropriate areas where taller buildings and more intense development will not result in substantial adverse impacts. The following two areas meet these criteria and are recommended for rezoning to permit increased building heights.

The first area is the west side of Boulevard East south of 71st Street, including the entire three blocks on the east side of Bellevue Avenue, the portions of three blocks west of Bellevue Avenue to the boundary of the C zone on Park Avenue and the lots on south side of 68th Street between Boulevard East and the boundary of the C zone on Park Avenue. (The attached map shows the location of this and other recommended zoning changes.)

This latter area is already impacted by a 6½-story building located just to the south and a 24-story high rise building on the east side of Boulevard East, both of which are located in the Town of West New York, while this entire area is situated in proximity to existing high rises in Guttenberg on the east side of Boulevard East. There are some existing sizable lots in this area as well.

The second area is the east side of Kennedy Boulevard, which would include the entire area west of Adams Street. Part of this area currently is located in the C zone with the remainder in the R-1 zone. While there are no high rises in the im-

- Restaurants.
- Permitted accessory uses:
- Off-street parking or garages.
- Home professions.
- Home occupations.
- Swimming pools.
- Signs.
- Public parks.
- Permitted conditional uses: none.

Bulk regulations:

*For lots less than 20,000 square feet in area:*

- Minimum lot area: 5,000 square feet.
- Minimum lot width: 50 feet.
- Minimum lot depth: 50 feet.
- Minimum front yard: 10 feet.
- Minimum side yard: 5 feet.
- Minimum rear yard: 25 feet.
- Maximum building height – buildings without ground floor parking: 3 stories/40 feet.
- Maximum building height – buildings with ground floor parking: 3 residential stories above parking level/50 feet.
- Maximum building coverage: 50%.

*For lots 20,000 square feet or greater in area:*

- Minimum lot width: 100 feet.
- Minimum lot depth: 100 feet.
- Minimum front yard: 20 feet.
- Minimum side yard: 5 feet for buildings up to 50 feet in height, 15 feet for buildings over 50 feet in height.
- Minimum rear yard: 40 feet.
- Maximum building height: 110 feet/10 stories, except that an additional 10 feet and 1 story shall be permitted for each additional 2,000 square feet of lot area up to 30,000 square feet, for a maximum of 160 feet/15 stories.
- Maximum building coverage: 75%.
- Maximum lot coverage: 90%.
- Any street-facing building plane shall contain a transparent window area on the ground floor which comprises not less than 25 percent of the area of the ground floor façade.

Parking regulations:

- Minimum off-street parking:
- Residential uses: in accordance with the New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-1 et seq.

five stories. The mix of permitted uses in the zone should also be modified to allow more types of businesses. Certain changes to the parking requirements for non-residential uses in the C zone are also recommended and described below. The changes suggested in the 2003 Master Plan, such as prohibiting automobile-oriented commercial uses, encouraging mixed-use development and reviewing sign regulations, are still valid recommendations.

#### **B. R-1 Zone**

The R-1 Low Density Residential district currently permits a range of uses, including certain types of residential, institutional and commercial uses. The existing minimum lot area requirements for this zone are 2,500 square feet for one- to four-family residential uses and 5,000 square feet for garden apartments. There are other minimum lot area requirements for certain other permitted uses, such as 7,500 square feet for row houses, attached dwellings and townhouses and 20,000 square feet for churches, parish houses, convents or monasteries, museums, public or private schools, nursing homes and philanthropic or eleemosynary institutions. The maximum permitted building height in the R-1 zone currently is three stories and 35 feet.

Most of the area currently located in the R-1 zone should remain in this district. The exceptions would be the limited areas proposed to be located in other zone districts (i.e., certain parcels to the west of Boulevard East and east of Kennedy Boulevard; the waterfront as described below). The existing height limits for this zone should not be increased in most instances. One change would be to allow commercial uses only on lots with frontage on Palisade Avenue or Park Avenue – currently, the zone permits such uses in any location within the zone where certain conditions are met. This new regulation would help concentrate commercial uses in appropriate locations. In addition, the 2003 Master Plan Update recommendation that multi-family residential should be allowed in the district on lots with a minimum area of 10,000 square feet remains valid. A slight increase in building height could be permitted on such larger lots. Other 2003 Master Plan Update recommendations for this district also remain valid.

Potential amended zone standards for the R-1 zone are as follows:

#### Use regulations:

Permitted principal uses:

- One-family detached dwellings.
- Two-family detached dwellings.
- Permitted accessory uses:
  - Off-street parking or garages.
  - Home professions.
  - Home occupations.
  - Swimming pools.

- Maximum building height – buildings with ground floor parking: 3 residential stories above parking level/45 feet.
- Maximum building coverage: 50%.
- Exposed parking areas underneath buildings are prohibited. Below-building parking within the building footprint shall only be permitted when such parking is screened by permitted uses or by architectural detailing. The architectural detailing for parking areas shall use a similar or complementary type and quality of materials as the remainder of the building.
- Maximum curb cuts:
  - Properties with 75 feet or less of lot frontage: one per property.
  - Properties with over 75 feet of lot frontage: one for every 75 feet of lot frontage.

Other conditional uses: no changes proposed to existing regulations.

### **C. New Waterfront District**

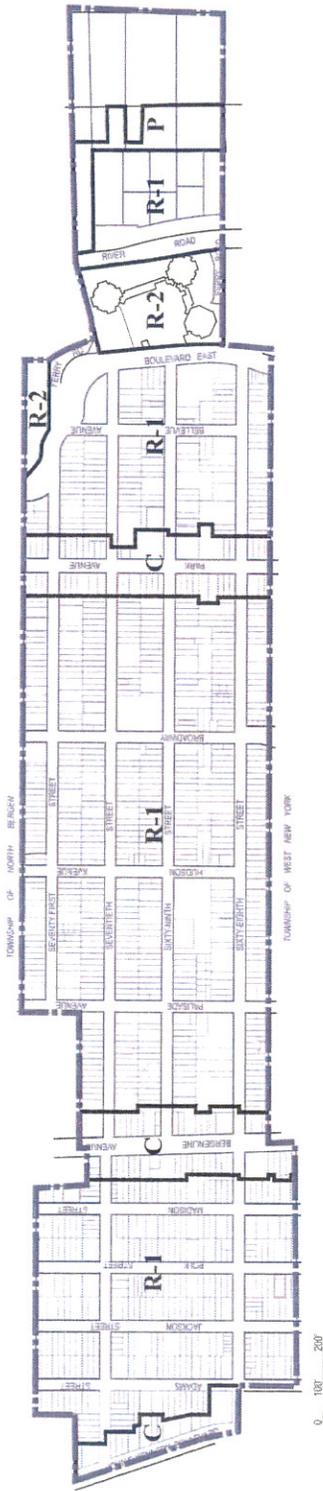
A new “waterfront residential” district was recommended in the 2003 Master Plan to encompass the existing townhouse development and other uses on the east side of River Road. Enacting zoning standards that comport with the current development pattern would help maintain the scale and layout of this development, while reducing the need for variances for alterations that fit within the desired development pattern. Thus, this zoning change is still recommended.

### **D. Parking Regulations**

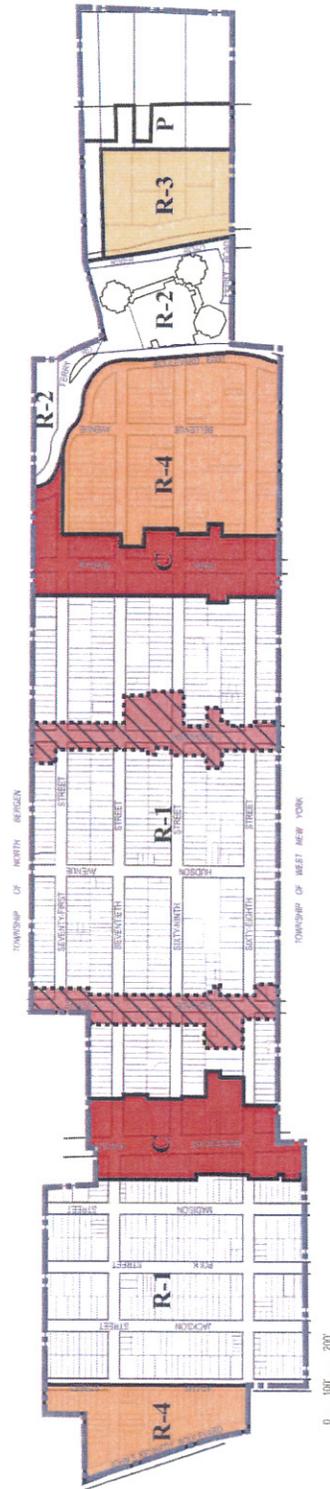
Some changes are recommended to the Town’s off-street parking regulations for non-residential uses. In a built-up municipality such as Guttenberg, higher percentages of trips are made by walking than in less densely developed communities. Therefore, minimum parking standards can be made less stringent. Currently, off-street parking requirements do not apply in the C district for any development that does not increase commercial floor area to more than 125% of the existing floor area or does not increase the number of bedrooms in the structure. This exemption should be maintained. However, one possible impact of this exemption is to discourage new development, which would require off-street parking to be provided in accordance with the zoning standards. A possible countermeasure would be to exempt a certain amount of commercial floor area from having to provide off-street parking (e.g., no off-street parking is required for the first 1,000 square feet of floor area of a ground floor commercial use). Another possible option would be to maintain minimum parking requirements, but to allow payment in lieu of providing actual parking spaces. The fees collected through this program would be utilized to provide additional public parking.

### **E. Antenna Regulations**

Another recommended change is to add regulations to the Zoning Ordinance for telecommunications antennas and equipment, which would allow the Town greater control over the location and design of such facilities. Possible items to



Existing Zoning



Proposed Zoning Changes

Master Plan Update  
**Land Use Plan and Zoning Changes**  
Town of Guttenberg, NJ

Phillips Preiss Shapiro Associates, Inc.  
June 2009

Proposed Changes:

-  New Waterfront Residential District (R-3)
-  New Mid-Rise Mixed-Use District (R-4)
-  Amended Commercial District
-  Portions of R-1 Zone Where Commercial Uses Permitted

Existing Zoning:

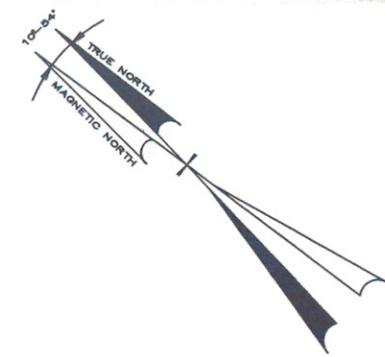
- R-1 Low Density Residential
- R-2 High Density Residential
- C Commercial
- P Parks and Recreation

TOWNSHIP OF NORTH BERGEN

TOWNSHIP OF NORTH BERGEN

TOWNSHIP OF WEST NEW YORK

HUDSON RIVER



**MAP LEGEND**

- 35 INDICATES BLOCK NUMBER
- 22 INDICATES LOT NUMBER
- INDICATES BLOCK LIMIT
- INDICATES MUNICIPAL BOUNDARY LINE
- INDICATES CREEK
- INDICATES BULKHEAD LINE
- - - - - INDICATES MEAN HIGH WATER LINE

**ZONE LEGEND**

- R-1 LOW DENSITY RESIDENTIAL
- R-2 HIGH DENSITY RESIDENTIAL
- R-3 WATERFRONT RESIDENTIAL
- R-4 MID-RISE MIXED USE
- C COMMERCIAL
- P PARKS AND RECREATION

APPROVED BY THE MAYOR AND COUNCIL OF THE  
TOWN OF GUTTENBERG BY ORDINANCE # 05-11  
ON MARCH 28, 2011

*Gerald R. Drascher*  
GERALD R. DRASCHER  
MAYOR

*Alberto Cabrera*  
ALBERTO CABRERA  
TOWN CLERK

NO.	DATE	DESCRIPTION	BY	DATE

**ZONING MAP**  
FOR  
**TOWN OF GUTTENBERG**  
HUDSON COUNTY - NEW JERSEY

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**Boswell McCLAVE** ENGINEERING  
330 PHILLIPS AVENUE SOUTH HACKENSACK, N.J. 07642  
PHONE 1-201-941-8778 FAX 1-201-941-8831  
N.J. CERTIFICATE OF AUTHORIZATION No. 28062700000

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STEPHEN T. BOSWELL, Ph.D., P.E., SECB  
PROFESSIONAL ENGINEER N.J. LIC. # 34680

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DATE: SEPT. 22, 2010      DRAWN BY: GM      CHECKED BY: FMK  
SCALE: 1"=250'      JOB No. GJ-291      DWG. No. 2010-ZONE 1 OF 1

ORDINANCE#09-11  
AN ORDINANCE TO AMEND CHAPTER 28, "ZONING," OF  
THE REVISED GENERAL ORDINANCES OF THE TOWN OF GUTTENBERG.

WHEREAS, Town of Guttenberg Joint Planning/Zoning Board adopted a reexamination of the Town's Master Plan and Development Regulations on June 15, 2009 ("the 2009 Reexamination"); and

WHEREAS, the Town of Guttenberg implemented the recommendations set forth in the 2009 Reexamination through the adoption of Ordinance #005-10, which made certain amendments and additions to Chapter 28, "Zoning," of the Revised General Ordinances of the Town of Guttenberg; and

WHEREAS, in the 2009 Reexamination the minimum lot area requirement for permitted principal uses in the R-1 Low Density Residential Zone was incorrectly listed as 5,000 square feet and should have been listed as 2,500 square feet; and

WHEREAS, this incorrect minimum lot area requirement was incorporated into Chapter 28, "Zoning," in the revised bulk standards of the R-1 Low Density Residential Zone in Section 28-4.5 and in the Schedule of District Regulations; and

WHEREAS, minor amendments to Chapter 28, "Zoning," are necessary to correct the minimum lot area requirement for permitted principal uses in the R-1 Low Density Residential Zone from 5,000 square feet to 2,500 square feet;

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg:

Section 1. Chapter 28, "Zoning," of the General Ordinances of the Town of Guttenberg be and is hereby amended by replacing the following sections of Chapter 28 with the text below.

§ 28-4 DISTRICT REGULATIONS.

§ 28-4.4 Schedule of District Regulations.

*Replace the existing schedule with the new schedule included on the following page.*

§ 28-4.5 District Regulations for R-1 Low Density Residential Zone.

b. Bulk regulations:

1. Permitted principal use standards:

- (a) Minimum lot area: 2,500 square feet.

ORDINANCE  
#9-11 / #5-11 / #5-10

REVISED

### SCHEDULE OF DISTRICT REGULATIONS

DISTRICT	PERMITTED USES	MINIMUM LOT SIZE		MAXIMUM HEIGHT		MAXIMUM COVERAGE	MINIMUM YARD REQUIREMENTS			
		WIDTH (FEET)	AREA (SQ. FT.)	STORIES	FEET		FRONT	ONE SIDE (FEET)	TWO SIDES (FEET)	REAR
R-1	Low Density Residential	See Section 28-4.5	2,500	3	35	Building: 40% Lot: 75%	Existing average	2	5 feet 1 inch	25
R-2	High Density Residential	See Section 28-4.6	40,000	50	550	Building: 60%	None	None	None	None
R-3	Waterfront Residential	See Section 28-4.7	7,500	3	35	Building: 60%	5	5	10	25
R-4	Mid-Rise Mixed-Use	See Section 28-4.8	5,000	With ground floor parking: 3 stories above parking/50 ft. Without ground floor parking: 3/4/0		Building: 50% Lot: 80%	10	5	10	25
	Lots less than 20,000 sq. ft.		100	10 stories/110 ft. (an additional 10 ft. and 1 story may be permitted for each additional 2,000 sq. ft. of lot area up to 30,000 sq. ft. for a max. of 15 stories/160 ft.)		Building: 75% Lot: 90%	20	Buildings up to 50 ft. 5 ft. Buildings over 50 ft. 15 ft.	Buildings up to 50 ft. 10 ft. Buildings over 50 ft. 30 ft.	40
C	Commercial	See Section 28-4.9	None	5	55	Building: 60%	None	None	None	None
P	Parks & Recreation	See Section 28-4.10								

Site Plan Subject to Planning Board Approval

Section 2. The Town Clerk be and is hereby authorized and directed to give notice at least ten (10) days prior to the hearing on adoption of this ordinance to the Hudson County Planning Board and to all others entitled thereto pursuant to N.J.S.A. 40:55D-15.

Section 3. All other parts, portions and provisions of the Guttenberg Zoning Ordinance, except where inconsistent with the terms hereof, are hereby ratified and confirmed. In the event of any inconsistency, the terms and provisions hereof shall govern.

Section 4. If any sentence, section, clause or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

Section 5. This ordinance shall take effect immediately upon final passage and publication as required by law and upon filing with the Hudson County Planning Board.

*/s/ Alberto Cabrera*  
*Introduction: 4.25.11*  
*Adoption: 5.23.11*



ORDINANCE NO 005-11  
AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 28, "ZONING," OF THE REVISED  
GENERAL ORDINANCES OF THE TOWN OF GUTTENBERG.

WHEREAS, the Town of Guttenberg Joint Planning/Zoning Board adopted a reexamination of the Town's Master Plan and Development Regulations on June 15, 2009; and

WHEREAS, the Town of Guttenberg adopted Ordinance No. 005-10, An Ordinance to Amend and Supplement Chapter 28, "Zoning," of the Revised General Ordinances of the Town of Guttenberg on March 1, 2010 to implement the recommendations set forth in the reexamination report; and

WHEREAS, consistent with Ordinance No. 005-10, the Town of Guttenberg authorized the preparation of a Zoning Map to delineate the various zone districts within the Town of Guttenberg; and

WHEREAS, the Town of Guttenberg desires to adopt the Zoning Map as the official Zoning Map for the Town of Guttenberg.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg:

Section 1. Chapter 28, "Zoning," of the General Ordinances of the Town of Guttenberg be and is hereby amended by revising Section 28-3.2, Official Zoning Map as follows:

**Section 28-3.2 Official Zoning Map**

The boundaries of the zoning districts shall be as shown upon the Map entitled *Zoning Map for the Town of Guttenberg, prepared by Boswell McClave Engineering, dated September 22, 2010*. Said Map shall be made part of this Ordinance. Any change in the boundaries as delineated on the Zoning Map shall be made on the Map promptly after any amendment to the Zoning Ordinance has been approved by the Mayor and Council of the Town of Guttenberg.

Section 2. The Town Clerk be and is hereby authorized and directed to give notice at least ten (10) days prior to the hearing on adoption of this ordinance to the Hudson County Planning Board and to all others entitled thereto pursuant to N.J.S.A. 40:55D-15.

Section 3. All other parts, portions and provisions of the Guttenberg Zoning Ordinance, except where inconsistent with the terms hereof, are hereby ratified and confirmed. In the event of any inconsistency, the terms and provisions hereof shall govern.

Section 4. If any sentence, section, clause or other portion of this ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or repeal the remainder of this ordinance.

Section 5. This ordinance shall take effect immediately upon final passage and publication as required by law and upon filing with the Hudson County Planning Board.

*15/ Alberto Chibrega  
Introduction: 2.28.11  
Adoption: 3.28.11*

## ORDINANCE#005-10

### AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 28, "ZONING," OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF GUTTENBERG.

WHEREAS, Town of Guttenberg Joint Planning/Zoning Board adopted a reexamination of the Town's Master Plan and Development Regulations on June 15, 2009; and

WHEREAS, the Town of Guttenberg desires to implement the recommendations set forth in this reexamination report; and

WHEREAS, the existing development regulations are contained in Chapter 26, "Land Use Procedures," Chapter 27, "Land Subdivision and Site Plan Review," and Chapter 28, "Zoning," of the Revised General Ordinances of the Town of Guttenberg; and

WHEREAS, amendments to Chapter 28, "Zoning" are necessary to implement certain recommendations of the reexamination report,

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg:

Section I. Chapter 28, "Zoning," of the General Ordinances of the Town of Guttenberg be and is hereby amended as follows:

A. Revise the Town's Zoning Map as described below.

- a. The east side of River Road, which is currently located within the limits of the R-1 zone, and more particularly designated as all lots within Blocks 44, 44.14, 44.15, 44.16, 44.17, 44.18, 44.19, 44.20, and 44.21 on the Guttenberg Tax Maps, are hereby rezoned to the R-3 Waterfront Residential Zone.
- b. The west side of Boulevard East south of 71<sup>st</sup> Street, including the entire three blocks west of Bellevue Avenue to the boundary of the C zone on Park Avenue and the lots on the south side of 68<sup>th</sup> Street between Boulevard East and the Boundary of the C zone on Park Avenue, which is currently within the limits of the R-1 zone, more particularly designated as Lots 5 through 30 in Block 33; Lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.01, and 24.02 in Block 34; Lots 6 through 30 in Block 35; Lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28.01, 28.02, 29, 30, 31, 32, 33, 34, 35, 36, 27, 28, 29, and 40 in Block 36; all lots in Blocks 38 and 39; and Lot 1 in Block 40; along the west side of Adams Street north of 68<sup>th</sup> Street to the northern municipal boundary with the Township of North Bergen, which is currently located within the limits of the R-1 zone, and more particularly designated as Lots 3.01, 4.01, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 in Block 2; and Lots 12.01, 12.02, 12.03, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, and 30 in Block 1; and along the east side of John F. Kennedy Boulevard from north of 68<sup>th</sup> Street to the northern municipal boundary with the Township of North Bergen, which is currently located within the limits of the C zone; more particularly Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 31 in Block 1; and Lots 1 and 2 in Block 2 on the Guttenberg Tax Maps, are hereby rezoned to the R-4 Mid-Rise Mixed-Use Zone.
- c. Boulevard East along the north side of 71<sup>st</sup> Street and Bergenline Avenue to the east, which is currently located within the limits of the R-1 zone, and more particularly designated as Lots 5, 6, 7, 8, 9, 10, and 11 in Block 37; and along Bergenline Avenue at the western boundary of the R-1 zone, from the municipal boundary with Township of West New York to the south and the municipal boundary with the Township of North Bergen to the north, which is currently located in the limits of the R-1 zone, and more particularly Lot 4 in Block 15; Lots 9 and 28.01 in Block 16; Lots 8 and 35 in

Block 17; and Lot 3 in Block 18; on the Guttenberg tax maps, are hereby rezoned to the C Commercial Zone.

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B. Add or replace the following sections of Chapter 28 with the text below.

§ 28-2 DEFINITIONS AND INTERPRETATION OF LANGUAGE.

§ 28-2.2 Definitions.

CONDITIONAL USE shall mean a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this chapter and upon the issuance of an authorization thereof by the Planning Board.

PLANNING BOARD shall mean the Joint Planning/Zoning Board of the Town of Guttenberg, created pursuant to the Municipal Land Use Law, Chapter 291; N.J.S.A. 40:55D-1 et seq.

*Change "PRINCIPAL PERMITTED USE" to "PERMITTED PRINCIPAL USE"*

*Delete "SPECIAL EXCEPTION"*

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§ 28-3 ESTABLISHMENT OF ZONING DISTRICTS.

§ 28-3.1 Zone Districts.

The Town is hereby divided into the following districts:

- R-1 Low Density Residential
  - R-2 High Density Residential
  - R-3 Waterfront Residential
  - R-4 Mid-Rise Mixed-Use
  - C Commercial
  - P Parks and Recreation
- 

§ 28-4 DISTRICT REGULATIONS.

§ 28-4.4 Schedule of District Regulations.

*Replace the existing schedule with the new schedule included at the end of this document.*

§ 28-4.5 District Regulations for R-1 Low Density Residential Zone.

a. Use regulations:

1. Permitted principal uses:

- (a) One-family detached dwellings.
- (b) Two-family detached dwellings.

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2. Permitted accessory uses:

- (a) Off-street parking or garages.
- (b) Home professions.
- (c) Home occupations.
- (d) Swimming pools.
- (e) Signs.
- (f) Public parks.

3. Permitted conditional uses:

- (a) Townhouses or row houses.
- (b) Multifamily residential.
- (c) Nursery schools.
- (d) Public or private schools.
- (e) Philanthropic institutions.
- (f) Public utility installations.
- (g) Places of worship.
- (h) Museums.
- (i) Nursing homes or assisted living residences.
- (j) Off-site or joint parking facility.
- (k) Retail and service commercial uses.

b. Bulk regulations:

I. Permitted principal use standards:

- (a) Minimum lot area: ~~5,000~~ <sup>2,570 Sq Ft.</sup> square feet. OJO AMENDED ON: 4.25.11-ADOPTED MAY 23RD
- (b) Minimum lot width: 25 feet.
- (c) Minimum front yard: existing average.
- (d) Minimum side yard (one): 2 feet.

- (e) Minimum side yard (both): 5 feet, 1 inch.
- (f) Minimum rear yard: 25 feet.
- (g) Maximum building height: 3 stories/35 feet.
- (h) Maximum building coverage: 40%.
- (i) Maximum lot coverage: 75%.

2. Permitted conditional use standards: see § 28-9.

**§ 28-4.6 District Regulations for R-2 High-Density Residential Zone.**

a. Use regulations:

- 1. Permitted principal use: high rise residential apartments.
- 2. Permitted accessory use: shopping mall.
- 3. Permitted conditional uses: none

b. Bulk regulations:

- 1. Minimum lot area: 40,000 square feet.
- 2. Maximum building height: 50 stories/550 feet.
- 3. Maximum floor area ratio: 3:1
- 4. Maximum building coverage: 60%

**§ 28-4.7 District Regulations for R-3 Waterfront Residential Zone.**

a. Use regulations:

- 1. Permitted principal use: townhouses or row houses.
- 2. Permitted accessory uses:
  - (a) Off-street parking or garages.
  - (b) Home professions.
  - (c) Home occupations.
  - (d) Swimming pools.
  - (e) Signs.

- (f) Public parks.
- 3. Permitted conditional uses: none.
- b. Bulk regulations:
  - 1. Minimum lot area: 7,500 square feet.
  - 2. Minimum lot width: 75 feet.
  - 3. Minimum front yard: 5 feet.
  - 4. Minimum side yard: 5 feet.
  - 5. Minimum rear yard: 25 feet.
  - 6. Maximum building height: 3 stories/35 feet.
  - 7. Maximum building coverage: 60%.

**§ 28-4.8 District Regulations for R-4 Mid-Rise Mixed-Use Zone.**

- b. Use regulations:
  - 1. Permitted principal uses:
    - (a) Multifamily residential.
    - (b) Retail and service commercial uses on ground floor only.
    - (c) Restaurants.
  - 2. Permitted accessory uses:
    - (a) Off-street parking or garages.
    - (b) Home professions.
    - (c) Home occupations.
    - (d) Swimming pools.
    - (e) Signs.
    - (f) Public parks.
  - 3. Permitted conditional uses: none
- b. Bulk regulations:

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1. For lots less than 20,000 square feet in area:

- (a) Minimum lot area: 5,000 square feet.
- (b) Minimum lot width: 50 feet.
- (c) Minimum lot depth: 50 feet.
- (d) Minimum front yard: 10 feet.
- (e) Minimum side yard: 5 feet.
- (f) Minimum rear yard: 25 feet.
- (g) Maximum building height -- buildings without ground floor parking: 3 stories/40 feet.
- (h) Maximum building height -- buildings with ground floor parking: 3 residential stories above parking level/50 feet.

(h) Maximum building coverage: 50%.

2. For lots 20,000 square feet or greater in area:

- (a) Minimum lot width: 100 feet.
- (b) Minimum lot depth: 100 feet.
- (b) Minimum front yard: 20 feet.
- (c) Minimum side yard: 5 feet for buildings up to 50 feet in height, 15 feet for buildings over 50 feet in height.
- (e) Minimum rear yard: 40 feet.
- (f) Maximum building height: 110 feet/10 stories, except that an additional 10 feet and 1 story shall be permitted for each additional 2,000 square feet of lot area up to 30,000 square feet, for a maximum of 160 feet/15 stories.
- (g) Maximum building coverage: 75%
- (h) Maximum lot coverage: 90%
- (d) Any street-facing building plane shall contain a transparent window area on the ground floor which comprises not less than 25 percent of the area of the ground floor façade.

c. Additional regulations:

1. Minimum parking structure setbacks: parking structures shall comply with the yard requirements for principal buildings.
2. Exposed parking areas underneath buildings are prohibited. Below-building parking within the building footprint shall only be permitted when such parking is screened by permitted uses or by architectural detailing. The architectural detailing for parking areas shall use a similar or complimentary type and quality of materials as the remainder of the building.
3. Maximum curb cuts:
  - (a) Properties with 75 feet or less of lot frontage: one per property.
  - (b) Properties with over 75 feet of lot frontage: one for every 75 feet of lot frontage.

§ 28-4.9 District Regulations for C Commercial Zone.

a. Use regulations:

1. Permitted principal uses:
  - (a) Retail and service commercial uses.
  - (b) General business and commercial offices.
  - (c) Medical and dental offices.
  - (d) Public and quasi public offices and facilities.
  - (e) Restaurants.
  - (f) Commercial entertainment facility.
  - (g) Multifamily residential.
  - (h) Multifamily residential above permitted uses listed in § 28-4.9a1(a) through (f) located on the ground floor.
2. Permitted accessory uses:
  - (a) Off-street parking or garages.
  - (b) Signs.
  - (c) Public parks.
3. Permitted conditional uses:
  - (a) Museums.

- (b) Nursing homes or assisted living residences.
  - (c) Off-site or joint parking facility.
- b. Bulk regulations:
- 1. Permitted principal use standards:
    - (a) Maximum building height: 5 stories/55 feet.
    - (b) Maximum building coverage: 60%.

2. Permitted conditional use standards: see § 28-9.

§ 28-4.10 District Regulations for P Parks and Recreation Zone.

- a. Use regulations:
- 1. Permitted principal uses: Public park and recreation areas.
  - 2. Permitted accessory use: Marina.
- b. Other regulations: Site Plan subject to Planning Board approval.

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§ 28-5 SUPPLEMENTARY REGULATIONS.

§ 28-5.10 RESERVED.

*Delete existing regulations.*

§ 28-5.11 High Rise Apartment Buildings in the R-2 District.

*All existing regulations of this subsection to remain.*

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§ 28-6 OFF-STREET PARKING AND LOADING SPACE.

§ 28-6.5 Off-Street Parking Requirements.

§ 28-6.X Parking Regulations for R-4 Mid-Rise Mixed-Use Zones.

- a. The number of off-street parking spaces required shall be set forth in the following schedule:

	<i>Uses</i>	<i>Required Parking Spaces</i>
1.	Swimming pools	1 for each 100 feet of water area.
2.	Places of worship and schools	1 for each 8 seats in an auditorium or 1 for each 10 classroom seats, whichever is greater.
3.	Philanthropic institutions, museums	1 for each 300 square feet of gross floor area.

- and commercial entertainment facilities.
4. Dwellings In accordance with the New Jersey Residential Site Improvement Standards at N.J.A.C. 5:21-1 et seq.
  5. Hospitals, nursing homes and assisted living residences 1 for each 3 beds, plus one for each employee.
  6. Medical or dental offices 1 space for each 150 square feet of gross floor area.
  7. Restaurants and nightclubs 1 for each 5 seats.
  8. Retail and service commercial uses No off street parking is required for the first 1,000 square feet of floor area of ground floor commercial use, 1 space for each 400 square feet of gross floor area above the first 1,000 square feet.
  9. Banks or professional offices 1 for each 300 square feet of gross floor area.

#### §28-9 CONDITIONAL USE STANDARDS.

##### §28-9.1 Intent and Purpose.

Certain uses are found to possess such unique characteristics and special forms each specific instance of their establishment or modification requires individual consideration.

All such uses shall be deemed to be permitted uses in their respective districts, but shall be subject to the specific additional standards and requirements pertaining solely to such uses.

##### §28-9.2 Standards Applicable to All Conditional Uses.

- a. The location and size of the use, the nature and intensity of operation involved, the size of the site in relation to it and the location of the site with respect to existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- b. Operations in connection with any special permit use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration, light or glare than would be the operations of any other use permitted in the district.

(Ord. 3/87 §4.521)

##### §28-9.3 Standards Applicable to Particular Conditional Uses.

- a. Nursing Home; Assisted Living Residence; Philanthropic or Bleemosynary Institution; Museum;

*All existing regulations of this subsection to remain.*

- c. Multi-family Residential.

1. Minimum lot area: 10,000 square feet.

2. Minimum front yard: 10 feet.
  3. Minimum side yard: 5 feet.
  4. Minimum rear yard: 25 feet.
  5. Maximum building height – buildings without ground floor parking: 3 stories/35 feet.
  6. Maximum building height – buildings with ground floor parking: 3 residential stories above parking level/45 feet.
  7. Maximum building coverage: 50%.
  8. Exposed parking areas underneath buildings are prohibited. Below-building parking within the building footprint shall only be permitted when such parking is screened by permitted uses or by architectural detailing. The architectural detailing for parking areas shall use a similar or complimentary type and quality of materials as the remainder of the building.
    - (a) Maximum curb cuts:
      - i. Properties with 75 feet or less of lot frontage: one per property.
      - ii. Properties with over 75 feet of lot frontage: one for every 75 feet of lot frontage.
- d. Townhouses or row houses.
1. Minimum lot area: 7,500 square feet.
  2. Minimum lot width: 75 feet.
  3. Minimum front yard: zero feet if parking is provided to the rear of the dwelling; 20 feet if parking is provided in front of the dwelling.
  4. Minimum side yard: 5 feet.
  5. Minimum rear yard: 25 feet.
  6. Maximum building height: 3 stories/35 feet.
  7. Maximum building coverage: 60%.
- f. Public or Private School:
1. Such school or educational facility shall be duly licensed by the New Jersey State Board of Education if a license is required by law.
  2. The minimum lot area of any school shall be one half (1/2) acre plus one-half (1/2) acre for every seventy-five (75) pupils for whom the school is designed.

3. Land coverage of the sum of the principal building plus accessory buildings shall not exceed thirty (30%) percent of the area of the lot.
  4. No health, correctional or any other facility not directly related to the general education of students shall be permitted.
- h. Off-Site or Joint Parking. Site Plan approval shall be required.
- i. Retail and service commercial uses in the R-1 District. Such uses shall be permitted on the ground floor only of properties fronting on Palisade Avenue or Park Avenue.

§28-9.4 RESERVED.

§28-9.5 RESERVED.

§28-9.6 RESERVED.

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§28-21 RESERVED.

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§28-23 RESERVED.

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§28-28 FEES.

§28-28.2 Review or Hearing by Board.

- a. Appeals: \$250.00
  - b. Conditional Use: \$500.00
  - c. Interpretation of Zoning Map: \$500.00
  - d. Variance: \$500.00
- 

§ 28-31 TELECOMMUNICATIONS ANTENNAS AND TOWERS.

§ 28-31.1 Intent and goals.

- a. Intent. The intent of this article is to establish general guidelines for the placement and appearance of wireless telecommunications facilities in a manner that achieves the stated goals of this article.
- b. Goals. The goals of this article are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas.
2. Encourage the location of new towers in industrial areas.
3. Minimize the total number of towers and antennas throughout the community.
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
5. Encourage wireless telecommunications carriers to locate towers and antennas, to the extent possible, in areas where the adverse impact on the community is minimal.
6. Minimize adverse visual impacts associated with the proliferation and clustering of towers.
7. Encourage wireless telecommunications carriers to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscaping screening and innovative camouflaging techniques.
8. To the greatest extent feasible, ensure that towers and wireless telecommunications facilities are compatible with surrounding land uses.
9. Enhance the ability of the wireless telecommunications carriers to provide such services to the community quickly, effectively and efficiently.
10. Consider the public health and safety as it relates to wireless telecommunications facilities.
11. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

§ 28-31.2 Definitions.

- a. Any word or term not defined herein shall be as defined in § 28-2.2 (Town of Guttenberg's Zoning Ordinance). Any word or term not defined herein or in § 28-2.2 shall be as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., or shall be utilized in standard usage for the context in which the word is used.
- b. Word usage. In interpreting this article, words in one tense shall include other tenses or derivative forms; words in the singular shall include the plural and in the plural, the singular; either gender shall include the other; the word "shall" is mandatory; the word "may" is permissive.
- c. Definitions. As used in this § 28.31, the following words shall have the meanings as indicated:

**ALTERNATIVE TOWER STRUCTURE** — Includes but shall not be limited to water towers, manmade trees, clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA** — Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications

signals. Parabolic dish antennas used for satellite communications shall not be included within this definition.

**BACKHAUL NETWORK** — The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers or the public switched telephone network.

**COLLOCATION** — When wireless telecommunications facilities for two or more wireless telecommunications carriers are placed together on the same tower, alternative tower structure or building.

**FAA** — The Federal Aviation Administration.

**FCC** — The Federal Communications Commission.

**GOVERNING AUTHORITY** — The Mayor and Council of the Town of Guttenberg or the Town of Guttenberg.

**HEIGHT** — when referring to a tower or antenna, the vertical measurement from the highest point in elevation of the tower or antenna to the average finished grade/elevation adjoining the foundation of the tower, building or structure.

**MOUNT** — The surface or structure upon which antennas are mounted, including building mounted, tower mounted and structure mounted.

**MUNICIPAL LAND USE LAW** — The Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

**PLANNING BOARD** — The Town of Guttenberg Joint Planning/Zoning Board whose statutory authority is defined by the Municipal Land Use Law, N.J.S.A. 40:55 D-1 et seq.

**PREEXISTING TOWERS and ANTENNAS** — Any tower or antenna on which a permit has been properly issued prior to the effective date of this article. This includes permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired. Any such towers or antennas shall be referred to in this article as "preexisting antennas" and "preexisting towers."

**PUBLIC OFFICER** — The Zoning Official of the Town of Guttenberg.

**TARGETED MARKET COVERAGE AREA** — The area that is targeted to be served by a proposed wireless telecommunications facility.

**TOWER** — Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including but not limited to self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term includes the structure and any support thereto.

**TOWER, GUY** — A type of tower that is supported or braced through the use of cables (guy wires) which are permanently anchored.

**TOWER, LATTICE** — A type of tower that is self-supporting, generally constructed of vertical metal struts and cross braces forming a structure which often tapers from the bottom to the top of the tower and is securely anchored to a foundation.

**TOWER, MONOPOLE** — A type of tower that is constructed of a single self-supporting shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

**TOWER RECONSTRUCTION** — Demolition and rebuilding of a tower on the same lot where the center point of the newly constructed tower is located no greater than 10 feet from the center point of the demolished tower. For the purpose of this definition, the center point of a tower shall be the geographic midpoint of the tower and all support structure as depicted in plan view.

**WIRELESS TELECOMMUNICATIONS** — The transmission of information of the user's choosing, such as voice, data, text, sound and/or video, using wireless telecommunications networks, between or among points specified by the user(s), without change in the form or content of the information as sent and received.

**WIRELESS TELECOMMUNICATIONS ANTENNA** — A type of antenna that is used specifically for the purpose of providing wireless telecommunications services.

**WIRELESS TELECOMMUNICATIONS CARRIER** — Any business establishment engaged in the offering of personal wireless telecommunications services. The term "carrier" or "provider" shall be synonymous with wireless telecommunications carrier.

**WIRELESS TELECOMMUNICATIONS FACILITY** — An unstaffed or staffed facility designed for the transmission and/or reception of radio frequency (RF) signals for the purpose of providing personal wireless telecommunications services as defined in the Federal Telecommunications Act of 1996. These facilities include but are not limited to: buildings, cabinets, other structure and facilities, generating and switching stations, repeaters, antennas, transmitters, receivers, towers and all other buildings and structures linking the wireless network of RF signal devices to conventional wired and other communications systems.

**WIRELESS TELECOMMUNICATIONS SERVICES** — The offering of personal wireless telecommunications, as regulated in the Federal Telecommunications Act of 1996, for a fee directly to the public, or to such classes of users as to be effectively available directly to the public. Wireless telecommunications services include those services such as cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed in the future.

**§ 28-31.3 Applicability.**

- a. New towers and antennas. All new towers, antennas and wireless telecommunications facilities in the Town of Guttenberg shall be subject to the regulations of this article, except as provided in Subsections b through f, inclusive.
- b. District height limitations. The requirements set forth in this article shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.

- c. Amateur radio; receive-only antennas. This article shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively as a reception-only antenna. Any permits under this section shall be subject to the appropriate federal regulations.
- d. Preexisting towers and antennas. Preexisting towers and preexisting antennas, as defined herein, shall not be required to meet the requirements of this article other than provisions specifically relating to federal requirements, building codes, safety standards and monitoring report requirements.
- e. AM array. For purposes of implementing this article, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- f. Satellite dishes. This article shall not govern any satellite dish presently regulated under the Town Code.

**§ 28-31.4 General guidelines and provisions.**

- a. Principal or accessory use or structure. Antennas and towers shall be considered principal uses and structures regardless of whether or not a wireless telecommunications facility is the sole use of the lot. A different existing principal use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. All other structures and ancillary facilities shall be considered accessory uses and structures.
- b. Lot size and setbacks. For the purpose of determining whether the installation of a tower or antenna complies with zoning regulations, including but not limited to setback requirements, lot-coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.
- c. Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied irrespective of municipal and county jurisdictional boundaries.
- d. Not essential services. Wireless telecommunications facilities, towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities or private utilities.
- e. Multiple antenna/tower plans. The Town of Guttenberg encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.
- f. Availability of an alternative suitable site/structure analysis. No wireless telecommunications facility not meeting all of the required minimum separation distance or conditional use standards set forth in this article shall be permitted unless the applicant affirmatively demonstrates that no other site, existing tower or structure or alternative technology that does not require the use of towers or structures is available that can accommodate the applicant's targeted market coverage area in full compliance with the separation distance or conditional use standard. Evidence to demonstrate the

absence of any other available option shall include a written report as specified in the submission requirements section of this article.

**§ 28-31.5 Zones where permitted; permitted and conditional uses.**

- a. Wireless telecommunications facilities operated under the regulations of the FCC and/or the Federal Telecommunications Act of 1996 shall be permitted in certain zoning districts in accordance with the provisions set forth in this article, subject to site plan review and approval.
- b. Wireless telecommunications facilities not expressly permitted are hereby prohibited.
- c. Wireless telecommunications facilities as a permitted use. A wireless telecommunications facility located on a property owner, lease or otherwise controlled by the governing authority shall be considered a permitted use, in accordance with the following provisions and exemptions:
  1. A lease authorizing such wireless telecommunications facility shall be approved by resolution of the governing authority. The decision to extend such leases to an applicant or carrier shall be vested solely with the governing authority.
  2. Site plan approval requirements of this article may be exempted; however, the governing authority may, as a condition of such lease, require site plan approval.
  3. The facility shall be exempt from all zoning/bulk standards except that towers and antennas shall not exceed maximum height restrictions established in this article for a permitted use. Performance and design standards shall be applicable.
- d. Wireless telecommunications facilities as a conditional use. Certain types of wireless telecommunications facilities shall be permitted as a conditional use in certain zones specified as follows:
  1. Permitted as a conditional use in the following zones:
    - (b) R-2 High Density Residential
    - (b) R-4 Mid-Rise Mixed-Use
    - (c) C Commercial
  2. Types of wireless telecommunications facilities permitted as a conditional use are limited to antenna arrays mounted on:
    - (a) Existing towers;
    - (b) Existing buildings;
    - (c) Existing alternative tower structures; or
    - (d) A reconstructed tower.

**§ 28-31.7 Conditional use zoning regulations for wireless telecommunications facilities.**

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- a. Applicability. The requirements contained in this section shall govern all wireless telecommunications facilities that are specified as a conditional use in certain zoning districts. All requirements contained in this section shall be considered conditional use standards.
- b. Minimum structure and antenna height.
  1. No antenna shall be installed on a structure that is less than 50 feet in height.
  2. No antenna shall be installed at a height lower than 50 feet.
- c. Maximum antenna height. No antenna shall extend above the following maximum height standards:
  1. Antennas mounted on an existing building or existing alternative tower structure shall not exceed by more than 20 feet, or 20% of the existing height of the building or structure, whichever is less.
  2. Antennas mounted on an existing or reconstructed tower shall not exceed the height of the existing tower.
- d. Tower reconstruction provisions. Tower reconstruction, as defined herein, shall be in accordance with all of the following:
  1. Demolition and reconstruction of a tower that does not meet the definition of tower reconstruction shall not be permitted, conditionally or otherwise.
  2. Reconstruction of an existing tower shall only be reconstructed as a monopole tower.
  3. Reconstruction of an existing tower may be demolished and rebuilt to a height no greater than the demolished tower. The antenna height shall not exceed the height of the reconstructed tower.
  4. Reconstruction of an existing tower shall be exempt from the separation requirements otherwise applicable as conditional use standards.

**§ 28-31.8 Performance and design standard for all wireless telecommunications facilities.**

- a. Aesthetics
  1. Towers shall maintain a galvanized steel finish, subject to any applicable standards of the FAA, and be painted a neutral color so as to reduce visual obtrusiveness. Color shall be selected to be consistent with the color scheme of surrounding buildings or structures.
  2. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
  3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

4. The use of stealth designs and camouflage structures, materials and treatments (trees, steeples, clock towers, etc.) shall be utilized in locations where vegetative conditions or architectural conditions warrant such treatments.
- b. Wiring. The maximum linear distance of an aboveground cable/wiring conduit running between an antenna mounting structure and the equipment structure shall be no greater than 25 feet; cable conduits longer than 25 feet shall be installed below grade. On building-mounted sites, no cable/wiring shall be permitted on the front or side facades of the building; wiring shall be installed within the interior of the building or on the rear façade only.
- c. Lighting. Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the reviewing board may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
- d. Signs. Other than typical "warning," "emergency" and equipment information signs, no signs shall be permitted. Emergency signs shall be on plates attached to the tower or building and shall not exceed two square feet in area.
- e. Parking. Minimal off-street parking shall be permitted as needed.
- f. Connections to wired telephone service. No antenna shall be located on any tower in order to provide direct landline telephone service; such service shall be provided via existing telephone lines if available to the site or by the underground extension of telephone lines to the site if necessary.

**§ 28-31.9 Buildings and equipment storage.**

- a. Bulk standards. Equipment cabinet or structures shall comply with the following requirements which are deemed to be zoning/bulk standards:
  1. The cabinet or structure shall not contain more than 100 square feet of gross floor area per carrier.
  2. Ground level cabinets shall conform to principal building setback requirements of the applicable zone district.
  3. The cabinet or structure shall not be more than 15 feet in height.
  4. For wireless telecommunications facilities on buildings or structures which are less than 65 feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area or over 12 feet in height, shall not be located on the roof of the structure or building.
  5. If the equipment cabinet or structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 15% of the roof area.
- b. Performance and design standards. Equipment cabinet or structures shall comply with the following requirements which are deemed to be performance and design standards:

1. In a front yard area or visible from a public street, the cabinet/structure shall be constructed as a building of an identical architectural design of surrounding buildings. An ornamental foundation planting shall be provided around the base of the building.
2. In a side or rear yard area not visible from a public street, the cabinet/structure shall be screened by an evergreen hedge with an ultimate height no less than 12 feet and a planted height of at least six feet.
3. If on a structure other than a tower, the equipment cabinet or structure must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structures so as to make the equipment structure as visually unobtrusive as possible.
4. One light may be provided at the entrance of the equipment structure, provided that the light is attached to the structure, is focused downward and is switched so that the light is turned on only when workers are at the site.
5. Collocation facilities shall provide a single integrated and attached equipment building to be shared by all carriers. The building may have multiple access doors, each dedicated to each carrier; however, a single common entryway door is encouraged.
6. The equipment storage buildings or cabinets shall be sufficiently insulated so that any noise generated from the equipment shall not exceed the noise levels permitted by any ordinances of the Town of Guttenberg or laws or regulations of the State of New Jersey.
7. Equipment storage buildings or cabinets shall comply with all applicable building codes.

**§ 28-31.10 Technical consultants.**

The Planning Board may retain technical consultants, as it deems necessary, to provide assistance in the review of the site plan application and site location alternatives analysis (if so applicable). The applicant (and/or carrier) shall bear the reasonable cost associated with such consultation, which cost shall be deposited in accordance with the Towns' escrow policies.

**§ 28-31.11. Site plan required; submission requirements; completeness of application.**

- a. Site plan required. Notwithstanding any other provisions excepting site plan approval, no wireless telecommunications facilities shall be permitted without site plan approval, unless it is expressly authorized in this article.
- b. Supplementary submission checklist requirements. In addition to a complete site plan submission, including all site plan detail requirements as set forth in Chapter 27, Land Subdivision and Site Plan Review, the following shall be required at the time of submission:
  1. Visual impact analysis, including the following:
    - (a) Computer-generated digital photographs representing "before and after" construction must be included which depicts all aspects of the facility such as antennas, support structures, ancillary facilities and wiring.

- (b) Reduction of visual impact statement. A statement that is certified by the applicant must be provided which states that every reasonable measure has been taken to assure that the proposed communications tower, antenna and/or accessory structure will be placed in a reasonably available location which will minimize the visual impact of the surrounding area (i.e., adjacent public rights-of-way) in accordance with minimum standards of applicable federal and other regulations.
2. Radio frequency (RF) coverage analysis, including the following:
- (a) Computer-generated coverage analysis accompanied by actual drive test measurements.
  - (b) Drawing or plan of the applicant's existing level of coverage in the Town of Guttenberg and within a half-mile of the municipal boundary.
  - (c) Drawing or plans of the applicant's "targeted market coverage area" of the site plan application.
3. Inventory of existing sites. An inventory of all existing towers, antennas or sites approved for towers or antennas that are either within the jurisdiction of the governing authority or within one-half of a mile of the border thereof, including specific information about the location height and design of each tower. The Planning Board may disseminate information pursuant to the Right To Know Law or any other law or regulation pertaining to the dissemination of public records to any organization seeking to locate antennas within the jurisdiction of the governing authority provided, however, that the Planning Board is not, by disseminating such information, in any way representing or warranting that such sites are available or suitable.
4. Availability of an alternative suitable site/structure analysis, if applicable. A written report that sufficiently demonstrates the absence of any other available option that would comply with minimum separation distance requirements or conditional use standards of this article. Evidence submitted as part of the report may consist of any of the following:
- (a) No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - (b) Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - (c) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - (d) The applicant's proposed antenna would cause electromagnetic interference with the antennas on the existing towers or structures or the antennas on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (e) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

- (f) The applicant demonstrates that there are significant other limit factors that render existing towers and structures unsuitable.
  - (g) The applicant shall have the affirmative obligation of proving that it has attempted to enter into a contract with the owners of an existing tower, structure or other more suitable site.
    - i. This obligation shall include copies of all correspondence as to rates, cost of contributions, etc.
    - ii. Copies of rejection of the offers propounded on the applicant by the owners of the existing structure and/or tower.
    - iii. Written cost proposals indicating actual quoted figures required by the owner of the existing structures and/or tower.
    - iv. A detailed cost analysis indicating the cost to the applicant to construct a new tower and/or structure.
  - (h) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
5. Franchises/licenses. Wireless telecommunications carriers shall certify that all franchises and licenses required by law for the construction and/or operation of a wireless communications system in the Town of Guttenberg have been obtained and shall file a copy of all required franchise documentation and licenses.
  6. Graphic depiction and numeric specifications for all setback and separation distances as required by this article.
  7. A statement including a full description of compliance with all applicable requirements of this article.
  8. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  9. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.
  10. A description of the feasible location(s) of future towers or antennas within the Town of Guttenberg based upon existing physical, engineering, technological or geographic limitations in the event the proposed tower is erected.
  11. A noise study determining the ambient sound level associated with proposed tower.

12. Documentation by a qualified engineer with a demonstrated expertise in structural engineering regarding the capacity of a proposed tower for the number and type of antennas.
13. Documentation by a qualified engineer with a demonstrated expertise in structural engineering that any proposed tower and antennas will have sufficient structural integrity to support the proposed antennas and the anticipated future collocated antennas and that the structural standards developed for antennas by the Electronic Industry Association (EIA) and/or the Telecommunications Industry association (TIA) have been met.
14. Any other information deemed by the governing authority to be necessary to assess compliance with the MLUL and this article.

c. Completeness of application.

1. Initial submission requirements. The applicant, at their option, may choose to make an initial submission for completeness review only, in accordance with the submission checklist requirements stated in this article. Said submission may be modified to include a total of four sets of required submission materials pursuant to this article. The submission will be distributed to the Board Engineer and Board Planner for completeness review. Upon the issuance of a certificate of completeness, the applicant shall make all required submissions at least 15 days prior to the scheduled public hearing.
2. Certification of completeness. An application shall be complete for the purposes of commencing the applicable time period for action by the Board when so certified by the Board or its authorized designee. In the event that the Board or its designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon expiration of the forty-five-day period for the purposes of commencing the applicable time period unless:
  - (c) The application lacks information required in the applicable checklist; and
  - (b) The Board or its authorized designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
3. Submission requirement waivers. The applicant may request that one or more of the submission checklist requirements be waived, in which event the Board or its designee shall grant or deny the request within 45 days. The application shall include a list of all requested submission waive items and items that are not applicable to the application. Nothing herein shall be construed as diminishing the applicant's obligation to offer sufficient proof during the application process that he or she is entitled to approval of the application.
4. Correction of erroneous information. The Board may subsequently require correction of any information found to be in error, and the submission of additional information not specified in this article, or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revision in the accompanying documents so required by the Board.

**§ 28-31.12 Maintenance and monitoring requirements; fees.**

- a. Compliance with other laws. The applicant's use of the premises is contingent upon its obtaining all certificates, permits, zoning and other approvals that may be required by any federal, state or local authority. The applicant shall erect, maintain and operate its antenna facilities in accordance with site standards, statutes, ordinances, rules and regulations now in effect or that may be issued hereafter by the FCC or any other governing bodies. Should any conflict arise between local zoning ordinances and rules or regulations promulgated by the FCC, the FCC rules and regulations shall govern.
- b. Federal requirements. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- c. Biannual maintenance reports. After the wireless telecommunications facility is in operation, the applicant shall submit a report within 90 days of commencing operation and at biannual intervals from the issuance of the building permit. The report shall be submitted to the Building Department and shall include:
  1. A report prepared by a professional engineer certifying the structural integrity of the facility, together with all antennas mounted thereon and whether they remain in use, and that they meet all applicable minimum safety and FCC requirements.
  2. Such report shall also certify whether or not antenna arrays have been modified and shall include a detailed listing of all antennas and equipment so certified.
  3. A satisfactory insurance company inspection report shall be deemed to meet the requirements of this section.
- d. All wireless telecommunications facilities shall be installed on the premises in a good and workmanlike manner. The municipality reserves the right to require the applicant to paint the antenna facilities in a manner consistent with the Property Maintenance Code of the municipality and consistent with the color of the building or to otherwise shield the antenna facilities from view.

**§ 28-31.13 Abandonment or discontinuation of use.**

- a. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless telecommunications facility, such carrier shall notify the Town Clerk by certified United States Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless telecommunications facility shall be considered abandoned if it is not operated for a continuous period of 12 months.
- b. The owner of any wireless telecommunications facility that is abandoned shall physically remove it within 90 days of receipt of notice from the Building Department notifying the owner of such

abandonment. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. "Physically remove" shall include, but not be limited to:

1. Removal of antennas, mount, equipment shelters and security barriers for the subject property.
  2. Proper disposal of waste materials from the site in accordance with local, county and state solid waste disposal regulations.
  3. Restoring the location of the facility to its original and/or natural condition, except that any landscaping and grading shall remain in the after-condition as deemed appropriate by the Town Engineer.
- c. If a carrier does not physically remove the antenna or tower in accordance with this section, the Mayor and Council may order the physical removal of such antenna or tower at the owner's expense and lien the property for the costs associated therewith, inclusive of professional fees.

**§ 28-31.14 Nonconforming uses.**

- a. Not expansion of nonconforming use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article shall not be deemed to constitute the expansion of a nonconforming use or structure.
- b. Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this article.
- c. Reconstruction of damaged or destroyed nonconforming towers or antennas. Bona fide nonconforming preexisting towers or antennas that are damaged or destroyed may be rebuilt without having to obtain site plan and/or a conditional use permit approval in accordance with all of the following:
  1. The type, height and location of the tower on the site shall be of the same type and intensity as the original facility approved.
  2. Building permits to rebuild the facility shall comply with building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed.
  3. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

**§ 28-31.15 Severability.**

- a. If any provision of this article or the application of said provisions to any person or circumstance is declared invalid, such invalidity shall not affect the remaining section of this article.
- b. This article and the provisions herein are declared to be severable.

WORKING DRAFT ZONING AMENDMENTS  
Town of Guttenberg - October 2009

- c. If any provisions of this article or the application of such provision to any person or circumstance is declared unconstitutional, that provision shall not affect the remaining sections of this article.
- d. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistencies to this article and, to this end, the provisions of this act are declared to be severable.

**§ 28-31.16 Repealer.**

Any ordinances or parts thereof in conflict with the provisions of this article are hereby repealed to the extent of such conflict.

**§ 28-31.17 Effective date.**

This article shall take effect upon final passage and publication in the manner provided by law.

WORKING DRAFT ZONING AMENDMENTS  
 Town of Guttentberg - October 2009

SCHEDULE OF DISTRICT REGULATIONS

1 inch/25

R-2	High Density Residential	See Section 28-4.6	None	40,000	50	550	Building: 60%	None	None	None	None	None	None
R-3	Waterfront Residential	See Section 28-4.7	75	7,500	3	35	Building: 60%	5	5	None	None	25	

WORKING DRAFT ZONING AMENDMENTS  
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R-4	Mid-Rise Mixed-Use	See Section 28-4.8	50	5,000	With ground floor parking: 3 stories above parking/50 ft. Without ground floor parking: 3/40	5	55	Building: 50% Lot: 80%	10	5	Buildings up to 50 ft. 5 ft. Buildings over 50 ft. 15ft	None	None	None	25
	Lots less than 20,000 sq. ft.														
	Lots greater than 20,000 sq. ft.		100		10 stories/110 ft. (an additional 10 ft. and 1 story may be permitted for each additional 2,000 sq. ft. of lot area up to 30,000 sq. ft. for a max. of 15 stories/160 ft.)			Building: 75% Lot: 90%	20						
C	Commercial	See Section 28-4.9	None			5		Building: 60%	None	None	None	None	None	None	None
P	Parks & Recreation	See Section 28-4.10													

Site Plan Subject to Planning Board Approval

SCHEDULE OF DISTRICT REGULATIONS

DISTRICT	PERMITTED USES	MINIMUM LOT SIZE		MAXIMUM STORES	MAXIMUM HEIGHT		MAXIMUM COVERAGE	MINIMUM YARD REQUIREMENTS			
		WIDTH (FEET)	AREA (SQ. FT.)		FEET	FEET		FRONT	ONE SIDE (FEET)	TWO SIDES (FEET)	REAR
R-1	Low Density Residential	See Section 28-4.5	5,000	3	35	Building: 40% Lot: 75%	Existing averages	2	5 feet, one each	25	
R-2	High Density Residential	See Section 28-4.6	40,000	50	550	Building: 60%	None	None	None	None	
R-3	Watersfront Residential	See Section 28-4.7	7,500	8	35	Building: 60%	5	5	10	25	
R-4	Mid-Rise Mixed Use	See Section 28-4.8									
				With ground floor parking: 3 stories above parking/50 ft.		Building: 50% Lot: 80%	10	5	10	25	
				10 stories/110 ft. (an additional 10 ft. and 1 story may be permitted for area up to 2,000 sq. ft. of lot area up to 30,000 sq. ft. for a max. of 15 stories/160 ft.)		Building: 75% Lot: 90%	200	Buildings up to 50 ft. 5 ft. Buildings over 50 ft. 15 ft.	Buildings up to 50 ft. 10 ft. Buildings over 50 ft. 30 ft.	40	
C	Commercial	See Section 28-4.9	None	5	55	Building: 60 ft.	None	None	None	None	
P	Parks & Recreation	See Section 28-4.10									

Site Plan Subject to Planning Board Approval