

MINUTES

Regular meeting of the Mayor and Council of the
Town of Guttenberg at Town Hall, 6808 Park Avenue, Guttenberg, New Jersey
on Wednesday, April 22, 2026, Second Floor

Call to Order: Dr. Cosmo A. Cirillo, Town Clerk

Salute to the Flag: By Dr. Cosmo A. Cirillo, Town Clerk

Members Present:

Councilpersons: Richard Delafuente, Monica Fundora, William Hokien (via telephone), Juana Malave and Mayor Wayne D. Zitt, Jr.

Sunshine Law:

As presiding officer of this Regular Meeting of the Mayor and Town Council of the Town of Guttenberg, held on April 22, 2026 at 4:30 P.M., I do hereby publicly announce, and I direct that this announcement shall be placed in the minutes of this meeting, and that the Notice requirements provided for in the "Open Public Meetings Act" have been satisfied. Notice of this meeting was properly given to the Town Council and transmitted by the Town Clerk to the Star Ledger and the Bergen Record and publicly posted on the Municipal Bulletin Board the annual resolution showing the date, time and place of each regular meeting.

Proclamation was presented to Michael Bahler

ABC Hearing- Liquor License Transfer, Derek Rosenfeld from Cuzco Brothers LLC
Maria Gesualdi, Esq., Counsel for Derek Rosenfeld

- Application has been filed for a Person-to-Person transfer of Plenary Retail Consumption License 0903-33-017-008, from Cuzco Brother LLC to Fat Swami's Jazz Bar & Lounge LLC

A motion was made by Councilperson Hokien seconded by Councilperson Malave Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien and Malave Nays: None Absent: None Abstain: Mayor Zitt

Approval of Minutes:

- Caucus Meeting of March 25, 2026
- Regular Meeting of March 25, 2026

A motion was made by Councilperson Delafuente seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

Approval of consent agenda Resolution #76-2026 through Resolution#84-2026:

A motion was made by Councilperson Delafuente seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

Resolution:

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION#76-2026
AUTHORIZING THE APPLICATION FOR IMPROVEMENTS TO VETERAN'S PARK

WHEREAS, the Hudson County Open Space, Recreation, and Historic Preservation Trust Fund ("County Trust Fund"), provides matching grants to municipal governments and to nonprofit organizations who are sponsored by their local municipality for assistance in the development or redevelopment of park improvements; and,

WHEREAS, the Town of Guttenberg desires to further the public interest by obtaining a matching grant of \$630,600.00 from the County Trust Fund to fund the following project: Veteran's Park Improvement Project; and,

WHEREAS, the governing body/board has reviewed the County Trust Fund Program Statement, and the Trust Fund Park Improvement application and instructions and desires to make an application for such a matching grant and provide application information and furnish such documents as may be required; and,

WHEREAS, the County of Hudson shall determine whether the application is complete and in conformance with the scope and intent of the County Trust Fund; and,

WHEREAS, the applicant is willing to use the County Trust Fund in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the County of Hudson for the above-named project and ensure its completion on or about the project contract expiration date.

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

1. That it is hereby authorized to submit the above completed project application to the County by the application deadline as established by the County; and,
2. That, in the event of a County Trust Fund award that may be less than the grant amount requested above, Mayor and Council of the Town of Guttenberg has, or will secure, the balance of funding necessary to complete the project, or modify the project as necessary; and,

3. That Mayor and Council of the Town of Guttenberg is committed to providing a match for the project in the amount of \$315,300; and,
4. That only the park improvements identified and approved in the project application, its Trust Fund contract, or other documentation will be considered eligible for reimbursement.
5. That Mayor and Council of the Town of Guttenberg agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and,
6. That this resolution shall take effect immediately.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #77-2026

A RESOLUTION ON BEHALF OF THE TOWN OF GUTTENBERG AUTHORIZING
EXECUTION OF FACILITY RENTAL AGREEMENTS WITH THE TOWN OF SECAUCUS
AT THE SECAUCUS SWIM CLUB

WHEREAS, the Town of Guttenberg (“Guttenberg”) desires to provide exercise and enrichment activities and to generally provide opportunities for residents in Town to exercise and to improve their overall health and well-being; and

WHEREAS, the Town of Secaucus (“Secaucus”) hosts Senior Water Aerobics classes at the Secaucus Recreation Center, located at 1200 Koelle Boulevard, Secaucus, New Jersey (“Facility”) as well as use for residents and summer camp participants; and

WHEREAS, Secaucus and Guttenberg have agreed that Secaucus has capacity to accommodate such services and that Guttenberg residents would benefit from an opportunity to participate in these programs; and

WHEREAS, Secaucus is willing to rent the Facility, for the purpose of allowing residents in Guttenberg to attend the Senior Water Aerobics classes, for a fee of \$10 per person; and

WHEREAS, the Guttenberg Mayor and Council have determined that participation in these programs will benefit the overall health, well-being, and wellness of Guttenberg residents and senior citizens, and that the rental fee are reasonable; and

WHEREAS, to affect the purposes described herein, the Mayor and Council of Guttenberg authorize the Town Administrator and the Town Attorney to finalize terms and further authorize the Mayor and Town Clerk to execute a Facility Rental Agreement between Guttenberg and Secaucus for Guttenberg’s use of the Facility by Guttenberg residents, senior citizens and summer camp participants for the 2026 calendar year; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Administrator and the Town Attorney are hereby authorized to finalize terms and the Mayor and Town Clerk are authorized to execute any contracts for the use of the Facility and any and all documents necessary to affect this resolution.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #78-2026
APPROVING NON-FAIR AND OPEN CONTRACTING OF LOUIS GARGIULO
COMPANY, INC. FOR THE INSTALLATION OF PLANTER BOXES

WHEREAS, there exists in the Town of Guttenberg (“Town”) a need for the services of a company that can install planter boxes for the Town’s spring flowers; and

WHEREAS, the Town sought quotations and Louis Gargiulo Company, Inc., located at 44-46 State Street, Jersey City, NJ 07304, has submitted a quotation, Quote No. 25-052, for the planting of spring flowers in the Town and the total amount not to exceed \$25,500.00 as set forth therein (“Proposal”); and

WHEREAS, the Town Administrator having reviewed the proposal recommends its acceptance as fair and reasonable; and

WHEREAS, the amount of \$25,500.00 is below the Town’s bid threshold; and

WHEREAS, this contract has been awarded through a non-fair and open process pursuant to N.J.S.A. 19:44A-20.4, et seq., and Louis Gargiulo Company, Inc., having submitted and the Town having received a C. 271 Political Contribution Disclosure Form in the required form, and the contract to be awarded shall include a provision prohibiting Louis Gargiulo Company, Inc., from making reportable contributions during the term of the contract as required by N.J.S.A. 19:44A-20.4, et seq.; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, as follows:

1. The Mayor or his designee is hereby authorized to execute a contract or purchase order for the installation of planter boxes for the Town’s spring flowers by Louis Gargiulo Company, Inc., for an amount not to exceed \$25,500.00 in accord with the terms of this resolution, and the terms of Louis Gargiulo Company, Inc.’s Proposal.
2. The Chief Financial Officer certifies that the necessary funds are available for this purchase from account: Streets and Roads Operating Expenses 01-2010-26-2907-001.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #79-2026
AUTHORIZING THE DONATION OF A TOWN POLICE VEHICLE TO THE
ANNA L. KLEIN SCHOOL

WHEREAS, the Town of Guttenberg (the “Town”) has a 2007 Dodge Durango vehicle (VIN# 1D8HB38N67F557227), that is no longer needed for municipal purposes; and

WHEREAS, the Anna L. Klein School has conveyed their interest in and need of 2007 Dodge Durango vehicle and is authorized to accept and maintain donations of real and personal property pursuant to N.J.S.A. 40:12-29; and

WHEREAS, pursuant to New Jersey Local Public Contact Law, N.J.S.A. 40A: 11-36(2), a municipality is permitted to convey property no longer needed for public use to other public entities without public sale; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the Town to convey the title to the 2007 Dodge Durango vehicle (VIN# 1D8HB38N67F557227) to the Anna L. Klein School; and

NOW THEREFORE BE IT RESOLVED, the Mayor and Town Council for the Town of Guttenberg, Hudson County, New Jersey, does hereby authorize the conveyance of the 2007 Dodge Durango vehicle (VIN# 1D8HB38N67F557227) to the Anna L. Klein School.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION # 80-2026
AUTHORIZING THE HIRING OF EMPLOYEES FOR THE TOWN OF GUTTENBERG

WHEREAS, there is a need to hire part-time employees for the Town of Guttenberg (“Town”) in various departments; and

WHEREAS, applications were sought from all persons interested in working for the Town; and

WHEREAS, the Town Administrator and the applicable department heads have reviewed the budget, the needs of the Town, and the qualifications and experience of the applicants and determined that it is in the best interest of the Town to hire the following people as part-time employees of the Town of Guttenberg as of the following dates:

1. Catalina Maya Gomez, hired February 13, 2026, for part-time employment in the department of public works;
2. Eduardo Tolon Teurbe, hired January 4, 2026, for part-time employment in the recreation department;
3. Andrew Posada, hired April 6, 2026, for part-time employment in the recreation department;
4. Ricardo Galeano Castano, hired February 21, 2026, for part-time employment in the recreation department;
5. Maria A Delafuente, hired April 22, 2026, for part-time employment in the senior services department;
6. Lucas Quinton Lopez, hired February 27, 2025, as part of the snow program in the department of public works;
7. Manuel Pereira, hired January 4, 2026, as part of the snow program in the department of public works;
8. Lazaro Gonzalez, hired January 17, 2026, as part of the snow program in the department of public works;
9. Logan Mollinedo, hired January 17, 2026, as part of the snow program in the department of public works.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson State of New Jersey, the above listed employees are hereby hired to work for the Town of Guttenberg. Their compensation shall be as set forth in the Salary Ordinance of the Town of Guttenberg; and

BE IT FURTHER RESOLVED, that said hiring are hereby effective as of the date of hiring.

BE IT FURTHER RESOLVED, that the Chief Financial Officer certifies that funds are available for the appropriation from the following accounts: Public Works, 01-2010-26-2901-001- Streets & Roads S&W Recreation, 01-2010-28-3071-001- Recreation & Educ S&W and Senior Services, 01-2010-28-3721-001-Senior Services S&W.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION#81-2026
AUTHORIZING A CONTRACT WITH PARKVANTAGE FOR A PARKING
INSTALLATION IN THE TOWN OF GUTTENBERG

WHEREAS, the Town of Guttenberg (“the Town”) requires parking management services for public parking installations in the Town; and

WHEREAS, the Town has determined that it would be in the Town’s best interests to implement a subscription-based parking installation to meet the Town’s needs; and

WHEREAS, ParkVANTAGE is a comprehensive web-based parking management solution service; and

WHEREAS, ParkVANTAGE can offer the Town three (3) User Licenses, 250G of Amazon AWS Cloud Storage, an ID Card Scanner, an 1D/2D Barcode Scanner, a Color Document Scanner, and Installation Services (the “Services”); and

WHEREAS, the Town desires to enter into a contract with ParkVANTAGE for the Services (the “Contract”) for a one-year term starting on April 1, 2026 through March 31, 2027 for a total amount not to exceed Twenty Two Thousand Twenty (\$22,020.00 USD) Dollars; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that the Town does hereby authorize the Mayor and appropriate Town Officials including the Purchasing Agent, Town Administrator, and Mayor to execute and enter into a contract with ParkVANTAGE as the Town’s parking management service provider.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #82-2026

AUTHORIZATION TO EXTEND COLLECTION AND DISPOSAL OF SOLID WASTE
SERVICES AND RECYCLING COLLECTION AND DISPOSAL SERVICES CONTRACTS
FOR THE TOWN OF GUTTENBERG 2026-2027

WHEREAS, the Town of Guttenberg (“Town”) received bids for the collection and disposal of Solid Waste and Recyclable Materials services on January 18, 2023; and

WHEREAS, Cali Carting, Inc. located at 450 Bergen Ave, Kearny, NJ 07032 was the only bidder; and

WHEREAS, the bid was reviewed and deemed legally sufficient; and

WHEREAS, Cali Carting, Inc. the Town awarded the contract to Cali Carting on February 1, 2023, for Solid Waste and Recyclable Materials disposal services (the “Contract”); and

WHEREAS, the Town extended the Contract for a term of two (2) years effective February 1, 2024, with the option that the parties may further extend such period for additional one (1) year periods but not to exceed two (2) extensions for solid waste and recyclable materials disposal services with Cali Carting Inc.; and

WHEREAS, the Town seeks to amend and extend the Contract for a term of one (1) year with the option that the parties may further extend such period for an additional one (1) year period for solid waste and recyclable materials disposal services with Cali Carting Inc.; and

WHEREAS, N.J.S.A. 40A:11-15(3) permits agreements for the collection and disposal of solid waste and recyclable material for any term not exceeding in the aggregate, five (5) years; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that the Mayor and Town Administrator are authorized to extend the Contract with Cali Carting, Inc. located at 450 Bergen Ave, Kearny, NJ 07032, for the provision of collection and disposal of Recyclable Materials services; and

BE IT FURTHER RESOLVED, this contract shall be effective February 1, 2026, through January 31, 2027.

BE IT FURTHER RESOLVED, that the Chief Financial Officer certifies that the funds necessary for this contract are available from Current Fund Recycling 01-2010-26-3052-001 Current Fund Solid Waste 01-2010-26-3062-001.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION#83-2026

RESOLUTION DISQUALIFYING ZUCCARO INC. FROM ELIGIBILITY FOR TOWN
CONTRACTS FOR THE PERIOD OF TIME IN WHICH THE TOWN AND ZUCCARO INC.
ARE ADVERSE PARTIES IN ONGOING LITIGATION

WHEREAS, the Town of Guttenberg (“Town”) publicly advertised and sought bids for FY 2025 Palisade Avenue Traffic Signal Improvements (“Project”); and

WHEREAS, the Town received three (3) bids for the Project for the Base Bid on the quantities for Items #1-55 inclusive, at the public bid opening on December 5, 2025; and

WHEREAS, Zuccaro Inc. of Garfield, New Jersey (“Zuccaro”) submitted the lowest Base Bid for the Project; and

WHEREAS, the Town Council and Mayor adopted Resolution 52-2026 awarding the Project contract to another bidder and disqualifying Zuccaro based on prior negative experience with the FY 2019/2020 NJDOT Bergenline Avenue Intersection Improvement and Park Avenue Roadway Project (“Prior Project”) and because the Town and Zuccaro are adverse parties in litigation arising from the Prior Project; and

WHEREAS, the Town was named in a lawsuit filed by Nadia Saliba related to negligent work completed by Zuccaro on the Prior Project in Hudson County Superior Court, Law Division, Docket number HUD-L-2005-25 (the “Lawsuit”); and

WHEREAS, in that Lawsuit, a resident allegedly broke her wrist after tripping on an item which was protruding from the sidewalk which Zuccaro had negligently installed in the Prior Project; and

WHEREAS, the Town filed an Answer and crossclaims for indemnification against Zuccaro in the Lawsuit; and

WHEREAS, Zuccaro was provided notice of its disqualification from this Project and an opportunity to be heard on its disqualification at the regular meeting of the Town Council and Mayor on February 25, 2026, pursuant to N.J.S.A. 40A:11-4; and

WHEREAS, Zuccaro did not appear at the February 25, 2026 meeting; and

WHEREAS, the Town Attorney advised the Town Council and Mayor that because of the ongoing litigation and the prior negative experience with Zuccaro that they had adequate basis to disqualify Zuccaro for a period of time not to exceed the time in which the Town and Zuccaro are adverse in the Lawsuit.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that Zuccaro is disqualified from eligibility for Town contracts and bidding opportunities until such time as the Lawsuit resolves or the Town and Zuccaro are no longer adverse parties.

BE IT FURTHER RESOLVED, that the Mayor and Town Clerk are authorized to take such other steps as are necessary to effectuate the purposes of this Resolution, including the execution of the contract for the Project.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION#83-2026
RESOLUTION DISQUALIFYING ZUCCARO INC. FROM ELIGIBILITY FOR TOWN
CONTRACTS FOR THE PERIOD OF TIME IN WHICH THE TOWN AND ZUCCARO INC.
ARE ADVERSE PARTIES IN ONGOING LITIGATION

WHEREAS, the Town of Guttenberg (“Town”) publicly advertised and sought bids for FY 2025 Palisade Avenue Traffic Signal Improvements (“Project”); and

WHEREAS, the Town received three (3) bids for the Project for the Base Bid on the quantities for Items #1-55 inclusive, at the public bid opening on December 5, 2025; and

WHEREAS, Zuccaro Inc. of Garfield, New Jersey (“Zuccaro”) submitted the lowest Base Bid for the Project; and

WHEREAS, the Town Council and Mayor adopted Resolution 52-2026 awarding the Project contract to another bidder and disqualifying Zuccaro based on prior negative experience with the FY 2019/2020 NJDOT Bergenline Avenue Intersection Improvement and Park Avenue Roadway Project (“Prior Project”) and because the Town and Zuccaro are adverse parties in litigation arising from the Prior Project; and

WHEREAS, the Town was named in a lawsuit filed by Nadia Saliba related to negligent work completed by Zuccaro on the Prior Project in Hudson County Superior Court, Law Division, Docket number HUD-L-2005-25 (the “Lawsuit”); and

WHEREAS, in that Lawsuit, a resident allegedly broke her wrist after tripping on an item which was protruding from the sidewalk which Zuccaro had negligently installed in the Prior Project; and

WHEREAS, the Town filed an Answer and crossclaims for indemnification against Zuccaro in the Lawsuit; and

WHEREAS, Zuccaro was provided notice of its disqualification from this Project and an opportunity to be heard on its disqualification at the regular meeting of the Town Council and Mayor on February 25, 2026, pursuant to N.J.S.A. 40A:11-4; and

WHEREAS, Zuccaro did not appear at the February 25, 2026 meeting; and

WHEREAS, the Town Attorney advised the Town Council and Mayor that because of the ongoing litigation and the prior negative experience with Zuccaro that they had adequate basis to disqualify Zuccaro for a period of time not to exceed the time in which the Town and Zuccaro are adverse in the Lawsuit.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey, that Zuccaro is disqualified from eligibility for Town contracts and bidding opportunities until such time as the Lawsuit resolves or the Town and Zuccaro are no longer adverse parties.

BE IT FURTHER RESOLVED, that the Mayor and Town Clerk are authorized to take such other steps as are necessary to effectuate the purposes of this Resolution, including the execution of the contract for the Project.

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #85-2026

A RESOLUTION APPROVING AN APPLICATION FOR A PERSON-TO-PERSON &
PLACE-TO-PLACE TRANSFER OF LIQUOR LICENSE 0903-33-017-008

WHEREAS, an application has been filed for a Person-to-Person transfer of Plenary Retail Consumption License 0903-33-017-008, from Cuzco Brother LLC to Fat Swami's Jazz Bar & Lounge LLC for a pocketed license without a premise; and,

WHEREAS, the submitted application form is complete in all respects, as outlined in N.J.S.A.33: 1-1 et seq., an Affidavit of Publication has been received by the Municipal Clerk and the transfer fees have been paid; and,

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS, the Guttenberg Police Department has investigated the applicant and the source of all funds to be utilized in connection with the purchase and operation of the business, and the results meet ABC standards; and,

WHEREAS, a Tax Clearance Certificate has been received from the Division of Taxation; and,

WHEREAS, the applicant is qualified to be licensed per Title 33 of the New Jersey Statutes and all rules and regulations promulgated there under, in addition to pertinent Town Ordinances, and

WHEREAS, an application has also been filed for a place-to-place transfer of Plenary Retail Consumption License 0903-33-017-008 heretofore issued to Cuzco Brothers LLC as a pocket license and application is made to attach this license for Fat Swami's Jazz Bar & Lounge LLC to the premises at 6900 Park Avenue, Guttenberg, NJ 07093; and

WHEREAS, the location meets ABC and Municipal requirements; and,

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Town of Guttenberg, County of Hudson, State of New Jersey does hereby approve, effective April 22, 2026, the person-to-person transfer of the aforesaid Plenary Retail Consumption License to Fat Swami's Jazz Bar & Lounge LLC and the place-to-place transfer of the aforesaid Plenary Retail Consumption License from its former location as a pocketed license without a premises to 6900 Park Avenue, Guttenberg, New Jersey 07093, and does hereby direct the Municipal Clerk to

endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to Fat Swami's Jazz Bar & Lounge LLC at the premises located at 6900 Park Avenue, Guttenberg, New Jersey, 07093, effective April 22, 2026".

ORDINANCE #9-26
ADOPTION

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY

AMENDING ORDINANCE NO. 32-24 AND NO. 03-24 AND TO CORRECT SCRIVENER'S ERRORS AND AUTHORIZING THE MAYOR AND TOWN CLERK TO EXECUTE THE AMENDMENT AND RESTATED FINANCIAL AGREEMENT BY AND BETWEEN THE TOWN OF GUTTENBERG AND 7000 ADAMS STREET URBAN RENEWAL DEVELOPMENT, LLC

WHEREAS, Ordinance No. 32-24 (a copy of which is attached hereto as Exhibit A), adopted by the Town Council of Guttenberg ("Town Council") on December 18, 2024, approved a financial agreement by and between the Town of Guttenberg ("Town") and 7000 Adams Street Urban Renewal LLC; and

WHEREAS, Ordinance No. 32-24 contained a scrivener's error insofar as the correct name of the entity entering into the financial agreement; the entity was incorrectly listed as "7000 Adams Street Urban Renewal LLC," but should have been listed as "7000 Adams Street Urban Renewal Development, LLC"; and

WHEREAS, Ordinance No. 32-24 contained a scrivener's error relating to the project description by incorrectly identifying the project as "for-sale" but in fact should have been described as "for-rent", and further mis-identified the Town redevelopment agency as "Woodbridge Redevelopment Agency"; and

WHEREAS, the scrivener's errors reflected in Ordinance No. 32-24 were also present in the form of financial agreement attached thereto (the "Financial Agreement", a copy of which is attached hereto as Exhibit B) which Financial Agreement was never executed; and

WHEREAS, Ordinance No. 03-24 (a copy of which is attached hereto as Exhibit C) adopted by the Town Council of Guttenberg ("Town Council") on March 27, 2024 adopted the 7000 Adams Street Redevelopment Plan; and

WHEREAS, Ordinance No. 03-24 contained a scrivener's error with respect to the date of adoption of Town Council Resolution No. 56-2023; the date of adoption was incorrectly listed as February 28, 2023, but should have been listed as February 27, 2023; and

WHEREAS, Ordinance No. 03-24 contained a scrivener's error with respect to the designation of the area in need of redevelopment contained within Town Council Resolution No. 187-2023; the Ordinance incorrectly indicates "other than the power of eminent domain", but it should state "including the power of eminent domain".

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Town Council of the Town of Guttenberg, County of Hudson, New Jersey, as follows:

Section 1. Ordinance No. 32-24 is hereby amended to correct the scrivener's errors as stated above and shall otherwise remain in full force and effect.

Section 2. Ordinance No. 03-24 is hereby amended to correct the scrivener's errors as stated above and shall otherwise remain in full force and effect.

Section 3. The Mayor and the Town Clerk are hereby authorized to execute the Amended and Restated Financial Agreement in substantially the form attached hereto as Exhibit D. The Town Clerk is hereby authorized and directed to attest to the execution of the Amended and Restated Financial Agreement by the Mayor and to affix the corporate seal of the Town to the Amended and Restated Financial Agreement.

Section 4. This ordinance shall take effect upon final passage and publication as required by law.

Ordinance#9-26 Adoption Vote

A motion to open to the public was made by Councilperson Fundora and seconded by Councilperson Habermann Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

NO COMMENTS

A motion to close and adopt was made by Councilperson Malave and seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

ORDINANCE #10-26

TABLED

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY

AN ORDINANCE AMENDING THE TOWN'S ZONING ORDINANCE CONCERNING THE ZONING MAP

WHEREAS, the Town of Guttenberg ("the Town") has made several revisions to its comprehensive zoning ordinance codified as Chapter 28 of the Revised General Ordinances of the Town of Guttenberg ("Zoning Ordinance"), and has adopted a number of redevelopment plans and designated several areas in the Town as areas in need of redevelopment; and

WHEREAS, the Planning Board and the Town Council and Mayor have duly adopted these amendments, designations of areas in need of redevelopment and redevelopment plan areas; and

WHEREAS, the Mayor and Council requested that the Town Engineer prepare a revised Zoning to incorporate changes to the zoning code since April 26, 2021, when the zoning map was last updated; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey that the Revised General Ordinances of the Town of Guttenberg is hereby amended as follows:

SECTION I.

§28-3.2 Official Zoning Map.

The boundaries of the zoning districts shall be as shown upon the Map entitled Zoning Map, Town of Guttenberg, prepared by Remington & Vernick Engineers, on file with the Office of the Town Clerk. 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.

- a. Zoning Map Amendments Pursuant to Ordinance No. which revised the boundaries of various zones within the Town:
 1. The zoning district classifications for the following properties, which are to the west of Boulevard East were not changed.
 2. The zoning district classifications for the following properties, which are between Kennedy Boulevard and Adams Street, are changed as follows:

Block	Lot	Current Zone	New Zone
1	All except 19, 20, 21	R-5	R-4
2	All	R-5	R-4

3. The zoning district classifications for the following properties located between Boulevard East and Bellevue Avenue are changed as follows:

Block	Lot	Current Zone	New Zone
34	All	R-5	R-4
40	All	R-5	R-4
41	All	R-2	R-5
38	All except 4, 6	R-5	R-4

SECTION II.

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION III.

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency.

SECTION IV.

Codification. The Town Clerk shall have this Ordinance incorporated in the official copies of the Revised General Ordinances. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error and to change any heading, chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Revised General Ordinances of the Town of Guttenberg, or as they may otherwise deem appropriate, even if headings, chapter numbers, article numbers and section numbers are otherwise provided for in this Ordinance.

SECTION V.

This Ordinance shall take effect upon passage and publication as required by law.

Summary of Ordinance

This Ordinance amends the Town's Zoning Map to reflect changes in the zoning code made since the most recent update to the zoning map.

Ordinance#10-26 Vote

A motion to table was made by Councilperson Malave and seconded by Councilperson Habermann
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None
Absent: None Abstain: None

ORDINANCE#11-26

INTRODUCTION

TOWN OF GUTTENBERG, COUNTY OF HUDSON, NEW JERSEY

ORDINANCE AMENDING ORDINANCE 34-25 REPEALING CHAPTER 2-57 OF THE CODE OF THE TOWN OF GUTTENBERG

WHEREAS, pursuant to N.J.S.A. 40:48-2 the Town of Guttenberg ("Town") is authorized to, among other things, make, amend, repeal and enforce ordinances "as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants," and

WHEREAS, the Mayor and the Town Council previously adopted Ordinance No. 07-2017, which authorized the Town to implement five-year exemption and abatement law for construction of multiple dwellings within the Town's rehabilitation area ("Ordinance 07-2017"); and

WHEREAS, the Town Council and Mayor adopted Ordinance 34-25 at the regular meeting of October 22, 2025 repealing Ordinance 07-2017; and

WHEREAS, the Town Council and Mayor had determined that repealing Ordinance 07-2017 was in the best interests of the Town as a way to manage the amount of construction and new development in Town and to reduce the impact that upcoming construction projects would have on quality of life for residents; and

WHEREAS, the Mayor and Town Council made this determination based on the understanding that any project which had been granted site plan approval by the Town Joint Planning / Zoning Board (“Land Use Board”) would be constructed pursuant to those approvals and that they would be eligible for a five year exemption or abatement which the Town Council and Mayor recognize are essential for obtaining construction financing to complete these projects; and

WHEREAS, the Town Council and Mayor acknowledge that those projects approved by the Town Land Use Board are in the Town’s best interest because these projects will add to the housing stock for Town, provide adequate parking for residents, and expand the tax base for the Town; and

WHEREAS, the Town Council and Mayor desire for those projects to be constructed, and recognize that the projects were planned based on the availability of these five-year exemptions and abatements; and

WHEREAS, the Town Council and Mayor desire to amend their repeal of Ordinance 07-2017 to permit those projects that had already been approved at the time of repeal to be eligible to apply for the Five Year Exemption and Abatements described in §2-57.

NOW, THEREFORE, BE IT ORDAINED, that the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey do hereby authorize Chapter 2-57 of the Revised General Ordinances of the Town of Guttenberg to be amended as follows:

SECTION ONE

§ 2-57 entitled “An Ordinance Authorizing the Town of Guttenberg to Implement Five-Year Exemption and Abatement Law for Construction of Multiple Dwellings within the Town’s Rehabilitation Area” shall be deleted in its entirety upon the effective date of this ordinance and amended to state “Repealed.”

SECTION TWO

Grandfathering: The Town shall permit any development project which would otherwise be eligible for the abatement / exemptions described in §2-57 to proceed with the application for such abatement / exemption so long as all of the following conditions are met:

1. The project had received preliminary and final site plan approval from the Town Land Use Board on or before November 11, 2025, the effective date of Ordinance 34-25;
2. The project would meet all requirements and eligibility criteria of §2-57 if it had not repealed prior to their application pursuant to §2-57; and
3. The property owner or developer submits a compliant application pursuant to the provisions of §2-57 within one (1) year following the effective date of this Ordinance.

The Town Administrator and Finance Director are hereby authorized to accept, review, and if appropriate, approve applications for Five-Year Exemptions and Abatements as authorized by §2-57 and this ordinance.

SECTION THREE

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION FOUR

Repealer. To the extent that any provision of the Revised General Ordinances of the Town of Guttenberg is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control.

SECTION FIVE

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION SIX

This Ordinance shall take effect upon passage. Any existing exemptions or abatements that were duly authorized by the Town Council and Mayor in accordance with Chapter 2-57 shall remain in full effect.

SUMMARY OF ORDINANCE

This ordinance amends Ordinance 34-25 which repealed Ordinance No. 07-2017 and deletes Chapter 2-57 of the Code entitled “An Ordinance Authorizing the Town of Guttenberg to Implement Five-Year Exemption and Abatement Law for Construction of Multiple Dwellings within the Town’s Rehabilitation Area.” The amendment creates a grandfathering provision to allow projects approved by the Town Land Use Board as of the effective date of Ordinance 34-25 to be eligible for Five Year Exemptions and Abatements.

Ordinance#11-26 Introduction Vote

A motion to introduce was made by Councilperson Fundora and seconded by Councilperson Hokien
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt
Nays: None
Absent: None
Abstain: None

ORDINANCE #12-26 **INTRODUCTION**

TOWN OF GUTTENBERG, COUNTY OF HUDSON, NEW JERSEY

PERMITTING THE IMPOSITION AND COLLECTION OF SALES TAX FOR CANNABIS
BUSINESSES OPERATING IN TOWN OF GUTTENBERG PURSUANT TO AUTHORITY
GRANTED BY ORDINACE 3-26 IN THE REVISED TOWN CODE

WHEREAS, in 2020, New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” and codified at N.J.S.A. § 24:6I-31 et seq. (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational/adult use cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses as defined in the Act:

- Class 1 Cannabis Cultivator, businesses involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer, businesses involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler, businesses involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributor, businesses involved in transporting cannabis plants in bulk from one licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer, businesses at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery Service, businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

WHEREAS, Section 31a the Act authorizes municipalities to adopt by ordinance regulations governing the number of Cannabis Establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location, manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, Section 31b of the Act authorizes municipalities to prohibit by ordinance the operation of any one or more classes of Cannabis Establishments, distributors or delivery services anywhere in the Town, except for the delivery of Cannabis items and related supplies by a delivery service based and initiated from outside of the municipality; and

WHEREAS, Section 40 of the Act authorizes municipalities by ordinance to adopt regulations which establish limited taxation of the above classes of activity within the municipality; and

WHEREAS, the Town adopted Ordinance No. 4-26 at its January 28, 2026 meeting to establish the process by which cannabis establishments may be approved in Town, and the Town adopted Ordinance 8-26 at its March 26, 2026 meeting to update zoning code to permit cannabis establishments under certain conditions.

WHEREAS, the Town Council desires to amend Ordinance No. 4-26 to permit the imposition and collection of sales tax on cannabis sales in Town; and

WHEREAS, the Mayor and the Town Council have determined that it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Town's residents and members of the public who visit, travel, or conduct business in the Town, to amend the Town Code, subject to the requirements of New Jersey State statutes or Administrative Code regulations, as may be adopted and amended, and requirements of the New Jersey Cannabis Regulatory Commission ("CRC"), and only if such Cannabis Establishment has first obtained a State license issued by the CRC and a Town Cannabis License ("TCL") as set forth herein, and to allow for the collection of a cannabis tax within the Town;

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Town of Guttenberg Mayor and Town Council, in the County of Hudson, State of New Jersey, that the Town Municipal Code be amended as follows:

§ 32-8. Cannabis Taxes

A. Purpose. It is the purpose of this section to implement the provisions of the Act which authorize the governing body of a municipality to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed two percent (2%) of the receipts from each sale by Cannabis Manufacturers and Cannabis Retailers, which shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the cannabis establishment.

B. Taxes Established.

1. There is hereby imposed a local cannabis transfer tax on receipts from sales of cannabis or cannabis items by cannabis establishments located in the Town. The transfer tax may be imposed on:
 - a. Receipts from sales by a cannabis manufacturer to another cannabis establishment, at a rate of 2% of the receipts; and
 - b. Receipts from retail sales by a cannabis retailer to consumers, at a rate of 2% of the receipts.

In no event shall the rates exceed the maximums set by N.J.S.A. 40:48I-1(a)(1). The cannabis transfer tax shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon property or cannabis establishment.

2. In addition to the transfer tax established by this section, a user tax at the equivalent transfer tax rate is hereby established on any concurrent license holder, as permitted by N.J.S.A. 24: 6I- 46. The user tax shall be imposed on the value of each transfer or use of cannabis or cannabis items not otherwise subject to the transfer tax imposed pursuant to paragraph 1 of this subsection, from the license holder's establishment that is located in the Town to any of

the other license holder's establishments, whether located in the Town or another municipality.

3. Any transaction for which the transfer tax or user tax is imposed, or could be imposed, pursuant to this section, other than those which generate receipts from the retail sales by cannabis retailers, shall be exempt from the tax imposed under the "Sales and Use Tax Act," N.J.S.A. 54: 32B- 1 et seq.

C. Collection.

1. The transfer tax or user tax imposed by this Section shall be collected or paid, and remitted to Town by the cannabis establishment from the cannabis establishment purchasing or receiving the cannabis or cannabis item, or from the consumer at the point of sale, on behalf of the Town by the cannabis retailer selling the cannabis item to that consumer. The transfer tax or user tax shall be stated, charged, and shown separately on any sales slip, invoice, receipt, or other statement or memorandum of the price paid or payable, or equivalent value of the transfer, for the cannabis or cannabis item.
2. Every cannabis establishment required to collect a transfer tax or user tax imposed by ordinance pursuant to this section shall be personally liable for the transfer tax or user tax imposed, collected, or required to be collected under this section. Any cannabis establishment shall have the same right with respect to collecting the transfer tax or user tax from another cannabis establishment or the consumer as if the transfer tax or user tax was a part of the sale and payable at the same time, or with respect to non-payment of the transfer tax or user tax by the cannabis establishment or consumer, as if the transfer tax or user tax was a part of the purchase price of the cannabis or cannabis item, or equivalent value of the transfer of the cannabis or cannabis item, and payable at the same time; provided, however, that the Town Finance Director shall be joined as a party in any action or proceeding brought to collect the transfer tax or user tax.
3. No cannabis establishment required to collect a transfer tax or user tax imposed by this section shall advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the transfer tax or user tax will not be separately charged and stated to another cannabis establishment or the consumer, or that the transfer tax or user tax will be refunded to the cannabis establishment or the consumer.
4. All revenues collected from a transfer tax or user tax imposed by ordinance pursuant to this section shall be remitted to the Finance Director on a quarterly basis payable for the prior three months' activities and due at the same time as quarterly dates for the collection of property taxes. The revenues due on February 1 of each year shall include all transfer taxes or user taxes collected for the prior year months of October, November and December. The revenues due on May 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of January, February and March. The revenues due on August 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of April, May and June. The revenues due on November 1 of each year shall include all transfer taxes and user taxes collected for the immediate prior months of July, August and September.

D. Payment; vendor violations and penalties.

1. The Town Finance Director shall collect and administer any transfer tax or user tax imposed by this section.
2. In the event that the transfer tax or user tax imposed by this section is not paid as and when due, the unpaid balance, and any interest accruing thereon, shall be a lien on the parcel of real property comprising the cannabis establishment's premises in the same manner as all other unpaid municipal taxes, fees, or other charges. The lien shall be superior and paramount to the interest in the parcel of any owner, lessee, tenant, mortgagee, or other person, except the lien of municipal taxes, and shall be on a parity with and deemed equal to the municipal lien on the parcel for unpaid property taxes due and owing in the same year.
3. The Town shall file in the office of its tax collector a statement showing the amount and due date of the unpaid balance and identifying the lot and block number of the parcel of real property that comprises the delinquent cannabis establishment's premises. The lien shall be enforced as a municipal lien in the same manner as all other municipal liens are enforced.
4. Interest on delinquent amounts shall accrue at the rates set by the governing body pursuant to N.J.S.A. 54:4-67 (not to exceed 8% per annum on the first \$1,500 of the delinquency and 18% per annum on any amount in excess of \$1,500), calculated from the date the tax was payable until the date payment is received by the Tax Collector.

E. Suspension/revocation of license.

1. Payment and reporting compliance under this ordinance are conditions of any Town Cannabis License ("TCL") issued by the Town pursuant to its local licensing authority.
2. The Town may suspend a TCL for failure to remit any required tax or submit required financial reports within ten (10) days of a due date, after written notice and an opportunity to be heard. A TCL may be revoked if a suspension persists for more than sixty (60) days, or for two (2) or more suspensions within any calendar year.
3. Actions under this section affect only TCLs. State licensure remains subject to the New Jersey Cannabis Regulatory Commission and the Act. Nothing herein shall be construed to authorize the Town to suspend or revoke a state license.

SECTION FOUR. To the extent that any article, section, paragraph, subsection, clause, or other provision of this Ordinance is inconsistent with the provisions of the Act, the provisions of the Act shall control.

SECTION FIVE. If any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

SECTION SIX. This Ordinance shall take effect upon its passage and publication and filing with the Hudson County Planning Board, and as otherwise provided for by law.

* * *

SUMMARY OF ORDINANCE

This ordinance establishes a 2% sales tax on all cannabis transactions taking place in the Town of Guttenberg, and establishes procedures for the imposition and collection of such tax.

Ordinance#12-26 Introduction Vote

A motion to introduce was made by Councilperson Hokien and seconded by Councilperson Malave
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None
Absent: None Abstain: None

ORDINANCE #13-26 **INTRODUCTION**

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE AMENDING CHAPTER 7 TRAFFIC, SECTION 3.10 ON **IMPROPER PARKING**
AND SECTION 14 ON VIOLATIONS AND PENALTIES OF THE TOWN CODE

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal, and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the Town of Guttenberg (“Town”) recognizes that illegal parking has the effect of increasing traffic congestion in certain sections of the Town; and

WHEREAS, there is a continuing need to deter such illegal parking for the betterment of the standard of living of the community and for the promotion of commerce; and

WHEREAS, there exists a need to amend Chapter 7, Section 3.10—Improper Parking and Section 14—Violations and Penalties to ensure the ongoing deterrent value of such violations and penalties.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Guttenberg, County of Hudson, State of New Jersey that:

SECTION ONE

§ 7-3.10. Improper Parking shall now read as follows (edits underlined):

- a. The operator of a vehicle shall not stop, stand or park the vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of traffic, on the right-hand side of the road and with the curb side of the vehicle within six inches of the edge of the roadway, except as follows:
 - 1. Upon those streets which have been designated by ordinance and have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb designated and indicated by the ordinance and marks or signs.
 - 2. Upon one-way streets, local authorities may permit parking of vehicles parallel with the left-hand edge of the roadway headed in the direction of traffic, on the left-hand side of the road and with the curb side of the vehicle within six inches of the edge of the roadway.
- b. The operator of a vehicle shall not park any vehicle parallel with the edge of the roadway headed, in the direction of traffic, outside the demarcated parking space lines in the roadway.
- c. The operator of a vehicle shall not park parallel with the edge of the roadway headed in the direction of traffic if, because of the vehicle length, the vehicle extends past the permitted demarcated parking space lines.
- d. The operator of a vehicle shall not park in a way that blocks, impedes, or in any way impacts the flow of pedestrian, vehicle, or bicycle traffic on any portion of the sidewalk, public walkway, or other public or Town property whether parked on the street or in an off-street parking space or driveway.
- e. The operator of a vehicle shall not park within five feet of a crosswalk unless within a marked, delineated on-street parking space.
- f. The operator of a vehicle shall not park within 10 feet of a fire hydrant.
- g. The operator of a vehicle shall not park on the roadway side of any vehicle stopped or parked at the edge or curb of a street (double parking).
- h. In any electric vehicle charging space if the vehicle is a non-electric vehicle or is a plug-in electric vehicle, including a battery electric vehicle or plug-in hybrid electric vehicle, that is not actively charging and where the space is clearly marked with signage and pavement markings indicating the space is reserved for plug-in electric vehicles that are actively charging, which signage and pavement markings shall be visible during the day and night.
- i. Penalties. Any person who violates any provision of this subsection shall, upon conviction thereof, be liable to penalties as described in § 7-14 of the Revised General Ordinances of the Town of Guttenberg.

§ 7-14. VIOLATIONS AND PENALTIES.

There is hereby established the following parking violation schedule and payable amounts:

Code Number	Payable Violation Description	Amount
7-3.2	Parking During Emergencies	\$65
7-3.3	Prohibited Parking on Certain Streets at All Times	\$65
7-3.4	Prohibited Parking on Certain Streets at Certain Hours	\$65
7-3.5	Prohibited Stopping or Standing on Certain Streets at Certain Hours	\$65
7-3.6	Parking Time Limited on Certain Streets	\$65
7-3.7	Parking Prohibited for Certain Vehicles 6,000 pounds., 8 feet high	\$124
7-3.9	Prohibited Parking on Alternate Sides of Certain Streets on Certain Hours [Ord. No. 15-2017]	\$40
7-3.10(a)-(c)	Improper Parking	\$65
7-3.10(d)	Parking that blocks sidewalk	\$65
7-3.12	Non-resident Parking Time Limits	\$120
7-3.10(e)	Parking that blocks crosswalk	\$75
7-3.10(f)	Parking near fire hydrant	\$75
7-3.10(g)	Double Parking	\$65
<u>7-3.10(h)</u>	<u>Prohibited parking in electric vehicle parking space</u>	<u>\$65</u>
7-4, 7-4.1	Prohibited Parking for Designated Weight and Designated Height of Vehicles on Certain Streets	\$134
7-7	Prohibited Parking in Loading Zones	\$65
7-8	Prohibited Parking in Taxi Zones	\$65
7-9	Prohibited Parking in Bus Stops	\$65
7-10	Turns Prohibited	\$85
7-11	No Turn on Red	\$85
7-13	Handicapped Parking (See N.J.S.A. 39:4-197)	\$273

SECTION TWO

Severability. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION THREE

Repealer. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION FOUR

In order to avoid accidental repeal of existing provisions, the Town Clerk and Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION FIVE

When Effective. This Ordinance shall take effect upon passage and publication as required by law. Pursuant to N.J.S.A. 40:55D-26 this amendment to Chapter 28 is hereby referred to the Town Joint Zoning & Planning Board for review to provide comment on whether the proposal is substantially consistent with the Master Plan.

SUMMARY OF ORDINANCE

This Ordinance amends to amend Chapter 7, Section 3.10—Improper Parking and Section 14—Violations and Penalties to update fines and penalties.

Ordinance#13-26 Introduction Vote

A motion to introduce was made by Councilperson Delafuente and seconded by Councilperson Fundora
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None
Absent: None Abstain: None

ORDINANCE #14-26

INTRODUCTION

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
AN ORDINANCE AMENDING CHAPTER 26 OF THE TOWN CODE, ENTITLED “LAND USE PROCEDURES”

ORDINANCE AMENDING CHAPTER 7 TRAFFIC, SECTION 3.10 ON **IMPROPER PARKING**
AND SECTION 14 ON VIOLATIONS AND PENALTIES OF THE TOWN CODE

WHEREAS, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., the Town Council is empowered to form and organize a planning board to oversee and administer applications for land use and development, and to perform such other actions as are granted under the Municipal Land Use Law; and

WHEREAS, Chapter 26 of the Town Code, entitled “Land Use Procedures,” among other things, establishes a planning board that also exercises the powers of a zoning board of adjustment and defines its duties, sets application fees, and provides for performance and maintenance guaranties; and

WHEREAS, since its initial adoption in 1960, Chapter 26 and other provisions of the Town Code have been amended and supplemented from time to time; and

WHEREAS, the Town Council and Mayor had determined to undertake a comprehensive revision of the Town Code provisions relating to land use and procedure, specifically, Chapter 26, Chapter 27, entitled “Land Subdivision and Site Plan Review,” and Chapter 28, entitled “Zoning,” for the purpose of providing general updates, eliminating obsolete provisions, and reorganizing the provisions thereof in a manner more consistent with the provisions of the Town Code; and

WHEREAS, on December 18, 2024, the Town Council and Mayor adopted at second reading Ordinance #29-24, entitled “Amending Chapter 26 of the Town Code Concerning Land Use Procedure,” which provides for comprehensive updates and amendments to Chapter 26 of the Town Code; and

WHEREAS, the Town Council and Mayor have determined to re-adopt the amendments to Chapter 26 contained in Ordinance #29-24 to address any procedural issues concerning the manner of its adoption;

NOW, THEREFORE, BE IT ORDAINED by the Town Council and Mayor of the Town of Guttenberg, County of Hudson, State of New Jersey that the Revised General Ordinances of the Town of Guttenberg are hereby amended as follows:

I.

Chapter 26 of the Town Code of the Town of Guttenberg is hereby amended as per the attached documents.

II.

Within ten (10) days from final adoption of this Ordinance, the Town Clerk shall publish notice of final adoption in the official newspaper of the Town.

III.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause, or phrase thereof for any reason be held to be invalid or unconstitutional, such decision

shall not affect the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

IV.

All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency.

V.

The Town Clerk shall have this Ordinance incorporated in the official copies of the Revised General Ordinances. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error or to change any heading, chapter numbers, article numbers, and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Revised General Ordinances of the Town of Guttenberg, or as they may otherwise deem appropriate, even if headings, chapter numbers, article numbers, and section numbers are otherwise provided for in this Ordinance.

VI.

This Ordinance shall take effect upon passage and publication as required by law.

CHA CHAPTER 26. LAND USE PROCEDURE

§ 26-1 PLANNING BOARD.

§ 26-1.1 Created.

Pursuant to the statutes in such case made and provided, known as the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), there is hereby created the Planning Board of the Town of Guttenberg (hereinafter, the "Planning Board").

§ 26-1.2 Membership.

The Planning Board shall consist of nine members of the following four classes:

- a. Class I: the Mayor or Mayor's designee.
- b. Class II: one of the officials of the Town, other than a member of the Town Council, to be appointed by the Mayor; provided that if there be an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1, shall be deemed to be the Class II Planning Board member for purposes of this ordinance in the event that there be among the Class IV or alternate members of the Planning Board both a member of the the Board of Education.
- c. Class III: a member of the Town Council to be appointed by the Town Council.
- d. Class IV members: Six other residents of the Town to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position, or employment. Not more than one Class IV member may be a member of the Board of Education. For the

purpose of this section, membership on a Town board or commission whose function is advisory in nature, the establishment of which is discretionary and not required by statute, shall not be considered the holding of Town office.

§ 26-1.3 Terms.

The term of the Class I member shall correspond to his or her official tenure as Mayor. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever occurs first. The term of all other Class IV members shall be four years. If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.

§ 26-1.4 Alternate Members.

There shall be up to four alternate members of the Planning Board. The alternate members of the Planning Board shall be appointed by the Mayor and shall serve in accordance with the provisions of N.J.S.A. 40:55D-23.1.

§ 26-1.5 Organization.

The Planning Board shall organize annually at its first meeting of each calendar year by selecting from among its Class IV members a Chairperson and a Vice Chairperson. The Planning Board shall also select a secretary who may or may not be a member of the Board or a municipal employee and create and appoint such other offices as established by ordinance.

§ 26-1.6 Legal Counsel and Other Professional Staff.

The Planning Board may annually appoint an attorney-at-law admitted to practice in the State of New Jersey other than the Town Attorney as Planning Board Attorney and may fix his or her compensation at an amount not exceeding the amount appropriated by the Town Council. The Planning Board may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Planning Board, however, shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the Town Council for its use.

§ 26-1.7 Conflict of Interest.

No member of the Planning Board shall be permitted to act on any matter in which he or she has any personal or financial interest, either directly or indirectly.

§ 26-1.8 Removal.

Any member other than a Class I member, after a public hearing, if requested, may be removed by the Town Council for cause.

§ 26-2 DUTIES OF THE PLANNING BOARD

§ 26-2.1 Powers and Jurisdiction of Planning Board.

- a. **Mandatory Powers.** The Planning Board shall exercise its powers in accordance with the Municipal Land Use Law in regard to:
 1. The Town Master Plan pursuant to N.J.S.A. 40:55D-28 et seq.
 2. Subdivision and site plan review pursuant to the Land Development and Site Plan Review Ordinance pursuant to N.J.S.A. 40:55D-37 et seq.
 3. Any official map adopted by the Town Council pursuant to N.J.S.A. 40:55D-32 et seq.
 4. The zoning ordinance including conditional uses pursuant to the Zoning Ordinance pursuant to N.J.S.A. 40:55D-62 et seq.
 5. Any capital improvements programs pursuant to N.J.S.A. 40:55D-29 et seq.
 6. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to this section.
- b. **Other Powers.** The Planning Board may:
 1. Participate in the preparation and review of programs or plans required by State or Federal law or regulation.
 2. Assemble data on a continuing basis as part of a continuous planning process.
 3. Perform such other duties as are assigned to it by ordinance or resolution of the Town Council.
 4. Adopt rules governing the procedures and conduct of meetings.
- c. **Planning Board Review In Lieu of Board of Adjustment.** Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70(d), the Planning Board, shall have the power to grant to the same extent and subject to the same restrictions as a zoning board of adjustment:
 1. Variances pursuant to N.J.S.A. 40:55D-70(c).
 2. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
 3. Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.
- d. **Referral Powers of the Planning Board.** Prior to the adoption of a development regulation, revision, or amendment thereto, the Planning Board shall make and transmit to the Town Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed development regulation, revision, or amendment that are inconsistent with the land use plan and the housing element plan of the Town's Master Plan and recommendations concerning these inconsistencies and any other matters as the Planning Board deems appropriate. The Town Council may adopt a zoning ordinance or amendment thereto that in whole or in part is inconsistent with the land use element plan and the housing element plan, but only by an affirmative vote of a majority of the full authorized membership. The Town Council shall state its reasons

for doing so in a resolution and recorded in the minutes. Failure of the Planning Board to transmit its report within the thirty-five (35)-day period provided herein shall relieve the Town Council from the requirements of this subsection in regard to the proposed development regulation, revision, or amendment referred to the Planning Board. Nothing in this section shall be construed as diminishing the application of the provisions of N.J.S.A. 40:55D-32 to any official map or an amendment or revision thereto or of N.J.S.A. 40:55D-62 to any zoning ordinance or any amendment or revision thereto.

§ 26-2.3 Findings for Establishment of a Planning Board pursuant to N.J.S.A. 40:55D-25(c)

The Town of Guttenberg has created a Planning Board in accordance with the statutory dictates of N.J.S.A. 40:55D-23 et seq. and created a Zoning Board of Adjustment pursuant to the dictates of N.J.S.A. 40:55D-69 et seq.; and the New Jersey Legislature has amended the Municipal Land Use Law, known as N.J.S.A. 40:55D-1 et seq., so as to allow municipalities with populations less than 15,000 residents, the option of creating a Planning Board and vesting the same powers of the Zoning Board of Adjustment in the Planning Board.

The amendment is delineated in N.J.S.A. 40:55D-25(c), which states in part that a municipality having a population of 15,000 or less, may create a nine-member Planning Board with four alternates, which shall exercise to the same extent and subject to the same restrictions, all of the powers of a Zoning Board of Adjustment; but the Class I and III members (Mayor and Council person) shall not participate in the consideration of applications for development which involve relief pursuant to Subsection d of N.J.S.A. 40:55D-70.

The intent and purpose of the amendment is to allow for the selection of members to a Planning Board willing to comply with the requirements imposed upon Planning Board members in complying with the ethics disclosure statement and requiring compliance with all of the dictates of the Statutes anent the position of Planning Board member.

The legislative branch of the State took into consideration the difficulties of filling all the regular and alternate positions on the voluntary Zoning Board of Adjustment and a Planning Board and the potential negative effect this hardship had on the municipalities and applicants who sought relief from the appropriate board.

The further intent of the legislative branch of the State was to lessen the costs of operating two separate and diverse Boards and such financial outlay was considered severe and a hardship on local municipalities and their respective governing bodies.

The Planning Board and Zoning Board of Adjustment of the Town of Guttenberg had a limited number of applications filed and heard, and further, the financial expenditures for each respective Board were still tendered for that period of time pursuant to the various expenses of the Boards and the financial savings attendant to the adoption and creation of a single Planning Board is self-evident and beneficial to Guttenberg, this financial consideration being a major factor and determinative of the intent of the legislative branch.

§ 26-2.4 Duties Delineated in N.J.S.A. 40:55D-25(c).

In addition to those powers and duties enumerated in Section 26-2.1, when the Planning Board is convened as a zoning board of adjustment, the Planning Board shall have the following powers pursuant to N.J.S.A. 40:55D-25(c). All references in the following subparagraphs to the Planning Board shall be construed as the Planning Board when exercising the powers and performing the functions of a zoning board of adjustment.

- a. Appeals. Hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by the Zoning Officer or any other Town Official, based on or made in the enforcement of the Zoning Ordinance or Official Map.
- b. Interpretations. Hear and decide requests for interpretation of the Zoning Ordinance or Zoning Map or for decisions upon other special questions upon which such Board is authorized to pass by any Zoning or Official Map Ordinance in accordance with the Municipal Land Use Law.
- c. Bulk and Dimensional Variances:
 1. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, the Board may grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; or
 2. Where in an application or appeal relating to a specific piece of property the purposes of zoning set forth in N.J.S.A. 40:55D-2 would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, the Planning Board may grant a variance to allow departure from such zoning requirements, provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection, and provided that no variance from those departures enumerated in this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has the power to review a request for a variance pursuant to N.J.S.A. 40:55D-60(a).
- d. "d" Variances. Pursuant to N.J.S.A. 40:55D-70(d), in particular cases and for special reasons, the Board may grant a variance to allow departure from zoning regulations to permit (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, (5) an increase in the permitted density as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision, or (6) a height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the

maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by an affirmative vote of at least five members.

- e. Additional Powers. Pursuant to this section, the Planning Board shall have the following additional powers:
 - 1. To direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin, or public area reserved pursuant to N.J.S.A. 40:55D-32.
 - 2. To direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
 - 3. To grant to the same extent and subject to the same restrictions as the Planning Board subdivision or site plan approval or conditional use approval whenever the proposed development requires approval by the Planning Board of a variance pursuant to this section of this Chapter. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The Planning Board shall condition the separate approval of the variance upon grant of all required subsequent approvals of a site plan or subdivision. No such subsequent approval shall be granted unless such approval can be granted without substantial impairment to the public good and without substantial impairment to the intent and purpose of the zone plan and zoning ordinance. The number of votes of Planning Board members required to grant any such subsequent approval shall be as otherwise provided in this chapter for the approval in question, and the special vote pursuant to N.J.S.A. 40:55D-70(d) shall not be required.

§ 26-2.5 Standards for Consideration.

- a. Relief Not Enumerated As a "d" Variance to be Decided Under Bulk and Dimensional Variance Criteria. If an application for development requests one or more variances but not a "d" variance, the decision on the requested variance or variances shall be rendered under the bulk and dimensional variance criteria.
- b. Requirement For Showing of No Substantial Detriment. No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the Zone plan and Zoning Ordinance.
- c. Referral of Application to Other Agencies. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Planning Board shall act.

§ 26-2.6 Annual Report on Variances Heard by the Planning Board.

The Planning Board shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Planning Board shall send copies of the report and resolution to the Mayor, Town Council, and the Town Clerk.

§ 26-2.7 Subdivision and Site Plan Committee.

The Chairperson of the Planning Board may appoint a Subdivision and Site Plan Committee. The Committee shall consist of at most three (3) Planning Board members and such technical and other staff members as the Chairperson may deem appropriate. The purposes of the Committee shall be as follows:

- a. To review, comment and make recommendations with respect to subdivision and site plan applications.
- b. To act on minor subdivision and minor site plan applications pursuant to N.J.S.A. 40:55D-47 and N.J.S.A. 40:55D-46.1 provided that no variances are required pursuant to Chapter 28 of the Town Code of the Town of Guttenberg.
- c. To perform other advisory activities and duties conferred upon it by the Planning Board through a motion duly adopted and recorded.

§ 26-3 DEVELOPMENT APPLICATION FEES.

§ 26-3.1 Purpose.

The purpose of this section is to provide for the establishment of a fee schedule for the payment of fees with respect to all applications submitted to the Town of Guttenberg pursuant to the Town's zoning and land use regulations.

§ 26-3.2 Procedures.

- a. Administration of Fees and Escrow Deposits.
 1. Application fees covering administration and overhead shall be charged to the applicant and shall be submitted at the time of an application for a review or hearing by the Planning Board.
 2. In addition to the fees to be paid herein, the applicant shall submit escrow deposits at the time of submission of an application for a review or hearing by the Planning Board.
 3. All application fees and escrow funds shall be paid in cash, certified check, attorney's check, or money order made payable to the Town of Guttenberg. Application fees and escrow funds shall be paid to the Town with separate certified checks or money orders. Along with the application fees and escrow funds, the applicant shall submit a letter breaking out the totals into its component parts, pursuant to Subsections 4 and 5 below.
 4. Where an application involves more than one of the categories itemized below, the fees and escrow deposit applicable to each category shall be required.
 5. The escrow funds shall be deposited into a separate trust account by the Town, pursuant to N.J.S.A. 40:55D-53.1, and if the deposit amount required is greater than \$5,000, interest will accrue to the applicant. Disbursements may be made from the escrow fund only after approval by the Town of Guttenberg's Chief Financial Officer.
 6. Escrow funds shall be placed in an escrow account by the Chief Financial Officer of the Town. Such funds shall be used to pay the Planning Board Attorney, Professional Engineer, Professional Planner, Traffic Engineer, and other experts

deemed necessary to review and comment on the application. Said experts shall submit vouchers to the Town for all reasonable and necessary fees for review of the application, which fees shall be paid from the escrow account in a manner prescribed in N.J.S.A. 40:55D-53.2(e) and N.J.S.A. 40A:5-16 through 40A:5-18.

7. Where the review costs exceed the escrow deposit fee, the applicant shall pay the additional amount within fifteen (15) days of the request. Failure to remit the additional required deposit within the requested timeline shall render the application incomplete, and no further action or proceedings shall be taken by the Planning Board until after compliance. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant within 120 days of final disposition of the application.
8. In the event that an application is withdrawn, application fees are nonrefundable, but any escrow funds remaining at the time of withdrawal shall be returned to the applicant. If the same application is resubmitted at a later time, the applicant shall be required to repay all application fees and establish a new escrow account.
9. An application is deemed incomplete until all application fees and escrow deposits are submitted.
10. No construction shall commence, nor shall a certificate of occupancy be issued, until the inspection fees required by Subsection 26-3.3d of this section have been submitted.

§ 26-3.3 Schedule of Fees and Escrow Deposits.

a. Site Plan or Subdivision.

1. Application Fees.

(a)	Minor site plan	\$500
(b)	Preliminary residential site plan	\$500, plus \$50 per dwelling unit
(c)	Preliminary site plan under 5,000 square feet	\$500
(d)	Preliminary site plan between 5,000 and 9,999 feet	\$1,000, plus \$50 for every 1,000 square feet
(e)	Preliminary site plan between 10,000 and 25,000 square feet	\$1,500, plus \$50 for every 1,000 square feet
(f)	Preliminary site plan over 25,000 square feet	\$2,000, plus \$50 for every 1,000 square feet
(g)	Final site plan	50% of preliminary site plan fee
(h)	Amendment or extension of preliminary or final site plan	\$500
(i)	Minor subdivision	\$500, plus \$100 per lot
(j)	Preliminary major subdivision	\$500, plus \$100 per lot
(k)	Final major subdivision	\$500, plus \$50 per lot
(l)	Amendment or extension of preliminary or final subdivision	\$500

2. Escrow Deposits.

(a)	Minor site plan	1,000
(b)	Preliminary residential site plan	\$1,000, plus \$100 per dwelling unit
(c)	Preliminary site plan under 5,000 square feet	\$1,000
(d)	Preliminary site plan between 5,000 and 9,999 feet	\$3,000
(e)	Preliminary site plan between 10,000 and 25,000 square feet	\$4,000
(f)	Preliminary site plan over 25,000 square feet	\$5,000
(g)	Final site plan	50% of preliminary site plan fee
(h)	Amendment or extension of preliminary or final site plan	\$1,000
(i)	Minor subdivision	\$1,000
(j)	Preliminary major subdivision	\$2,500
(k)	Final major subdivision (three to five lots)	\$3,000
(l)	Final major subdivision (over five lots)	\$5,000
(m)	Amendment or extension of preliminary or final subdivision	\$1,000

b. Appeals, Interpretations, and Variances.

1. Application Fees.

(a)	Hear and decide appeals, pursuant to N.J.S.A. 40:55D-70(a)	\$300
(b)	Hear and decide interpretation of the Zoning Map or Ordinance, pursuant to N.J.S.A. 40:55D-70(b)	\$300
(c)	Variance pursuant to N.J.S.A. 40:55D-70(c)	\$300 for the first variance, \$150 for each additional variance
(d)	Variance pursuant to N.J.S.A. 40:55D-70(d)	\$500 for the first variance, \$250 for each additional variance

2. Escrow Deposits.

(a)	Hear and decide appeals, pursuant to N.J.S.A. 40:55D-70(a)	\$500
(b)	Hear and decide interpretation of the Zoning Map or Ordinance, pursuant to N.J.S.A. 40:55D-70(b)	\$500
(c)	Variance pursuant to N.J.S.A. 40:55D-70(c)	\$1,000 if not part of site plan or subdivision
(d)	Variance pursuant to N.J.S.A. 40:55D-70(d)	\$1,000 if not part of site plan or subdivision

- c. Other Fees.
1. Application Fees.

(a)	Special meeting	\$1,000
(b)	Informal or concept reviews	\$250
(c)	Requests for extensions	\$250

2. Escrow Deposits.

(a)	Special meeting	\$1,000
(b)	Informal or concept reviews	\$500

- d. Inspection Fees. Inspection fees for drainage, paving, landscaping, curbing, and other improvements which relate to matters involving public facilities: The greater of \$100 or 10% of the cost of the improvements.

- e. Application Fees for Building Permit.

(a)	For construction less than \$350,000	\$200
(b)	For construction of \$350,000 to \$750,000	\$300
(c)	For construction from \$750,000 to \$1,500,000	\$400
(d)	For construction of \$1,500,000 and over	\$500

§ 26-3.4 Escrow Fees for Professional Review and Expert Witness.

- a. Escrow Deposits. The Planning Board shall require, in addition to its base application fees, escrow deposits in accordance with the provisions of this section. Such deposits shall be utilized to pay the cost of any professional services incurred by professionals retained by the Planning Board for the review of an application for development to the Planning Board. The Town shall make all of the payments to professionals for services rendered to the municipality for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. The deposit received from an applicant shall be placed in an escrow account pursuant to the provisions of N.J.S.A. 40:55D-53.1. Such deposit shall be utilized to pay the cost of any professional services incurred for the review of an application for development to the Board and may also be utilized to pay the cost of review and testimony by an expert witness or witnesses retained by the municipal agency. All payments charged to the deposit shall be pursuant to vouchers from the professionals stating the hours spent, the hourly rate and the expenses incurred. The municipality shall render a written final accounting to the applicant on the uses to which the deposit was put. Thereafter the municipality shall, upon written request, provide copies of the vouchers to the developer. Payment due professionals retained by

the municipality shall be made upon receipt of adequate moneys from applicants for development.

- b. Professional Services Defined. The term “professional services,” as utilized herein, shall include the services of a duly licensed engineer, surveyor, planner, attorney, scientist, realtor, appraiser, certified shorthand reporter, or other professional or expert who provided services for review, advice, preparation of reports and expert testimony, for inspection of the property and surrounding area and for tests performed, in order to assist the Planning Board in the review of the application before it.
- c. Amount of Escrow. Subject to the provisions of paragraph d below, each applicant shall, prior to his or her or its application being ruled complete pursuant to the provisions of the Municipal Land Use Law and this section, submit the sums requested by Section 26-3.3 to the Chief Financial Officer of the Town of Guttenberg.
- d. Completeness of Application; Escrow Fees.
 - 1. Within forty-five (45) days after the filing of an application for development, the Planning Board or its authorized committee or designee, as the case may be, shall, in connection with the appropriate representatives of the staff of the Town of Guttenberg, review said application for development to determine whether the escrow amount set forth above is adequate. In conducting such review, said Planning Board shall consider the following criteria:
 - (a) The presence or absence of public water or sewer servicing the site.
 - (b) Environmental considerations, including but not limited to geological, hydrological, and ecological factors.
 - (c) The traffic impact of the proposed development.
 - (d) The impact of the proposed development on existing water quality.
 - (e) Any other unique land use concerns relating to the application.
 - 2. Upon completion of said review and within said forty-five (45)-day period, the Planning Board or its authorized committee shall adopt a resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event that the Planning Board or its authorized committee shall determine that the amount is excessive, it shall in the resolution specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event that the Planning Board or its authorized committee shall determine that the amount specified above is insufficient, it shall so specify and shall further set forth the amount required to be posted in light of the criteria specified herein.
 - 3. No application for development shall be deemed complete until such time as the applicant shall have posted with the Town of Guttenberg in cash, certified check, or money order the amount of escrow deposit determined by the Planning Board to be required in accordance with the provisions of this section.
- e. Additional Escrow Deposits.
 - 1. The Board may require additional escrow deposits by the applicant to be posted during the course of the review of an application, provided that:
 - (a) The original amounts escrowed pursuant to this section have been exhausted; and
 - (b) Additional professional services or expert services must reasonably be incurred because of the presence of one or more factors enumerated in paragraph d above, in order to complete the review of the application and to properly decide the same.

2. In the event that additional escrow moneys are required they shall not be deemed items required for the application to be complete but may be required as additional information reasonably required to decide the application. Their payment shall be required as a condition of any approval granted.
- f. Charge for Certain Professional Services to the Applicant. Applicants shall be responsible to reimburse the Town with regard to certain specific professional services in accordance with the following:
1. The applicant shall be required to reimburse the Town for the cost of attendance by the Town's professional personnel at any meeting of the Town agency or board at which a hearing is held on the application. However, where hearings on other applications are held at the same meeting at which the attendance of the Town's professional personnel are also required, the cost of the attendance of the Town's professional personnel shall be reimbursed to the Town on a pro rata basis.
 2. The Town shall be entitled to be reimbursed for attendance of its professional personnel at special meetings of a Town agency or Board which were requested to be called by the applicant.
 3. The applicant shall pay for the review of any revisions of the applications or maps in the event that the application is declared incomplete.
 4. The cost of the preparation of a resolution or memorializing resolution setting forth the findings of fact and conclusions of law of the Town agency or board with respect to an application shall be reimbursable to the Town.
 5. The fees for other professional services incurred by the Board shall be reimbursed by the applicant to the Town.
- g. Reasonable Charges for Professional and Expert Services. No professional personnel submitting charges to the Town for any of the services referred to in this subsection shall charge for any of the services at any higher rate or in any different manner than would normally be charged the Town for similar work, as ascertained by the professional's contract of employment with the Town or by provisions of the Municipal Salary Ordinance. The charges shall be reasonable.
- h. Deposit of Escrow Funds; Refunds. Deposits received from any applicant shall be held by the Chief Financial Officer of the Town in a special interest-bearing deposit account, and upon receipt of bills for professionals duly approved by the Planning Board, or governing body, as appropriate, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. All sums not actually so expended and any interest earned thereon shall be refunded to the applicant within sixty (60) days after the final decision by the Planning Board with respect to such application, upon certification by the Board Secretary that such application has been finally decided and all professional fees have been paid.
- i. Reimbursement for Inspection of Improvements. The applicant shall reimburse the Town for all reasonable inspection fees paid to the Town Engineer for the inspection or testing of improvements. The Town may require the applicant to make a deposit for all or a portion of the reasonably anticipated fees to be paid for the Town Engineer for such inspections pursuant to N.J.S.A. 40:55D-53(h).
- j. Inspection of Improvements. All of the improvements in a subdivision or site plan shall be inspected and approved by the Town Engineer. The subdivider or his, her or its agent, employee or contractor shall notify the Town Engineer and the Secretary of the reviewing Town Board when the work is ready for any required inspection specified

herein or required to be performed by the Town Engineer, the Construction Official or the appropriate subcode official. This notice shall be given at least forty-eight (48) hours prior to the time the inspection is desired. The inspection shall be performed within three business days of the time for which it was requested; however, failure to inspect within three business days shall in no way constitute approval of the work. The work shall not proceed in a manner which shall preclude the inspection until it has been made. No underground installation shall be covered until inspected and approved.

k. Liens on Property.

1. Should any fees for applications for development, expert witness fees, consultant's fees, review fees, inspection fees, or fees of any nature connected with an application for development be due and unpaid by an applicant for development and/or owner of a subject property for a period of fourteen (14) days after written notice of the amount due was mailed to the owner and applicant, the Town Clerk or Mayor or Assistant Clerk or other officer or employee of the Town of Guttenberg may execute a written statement of lien showing the amount due to the Town and may record the same in the Hudson County Register's and/or Clerk's office as a lien on the subject property. The lien shall include interest at the rate of twelve percent (12%) per annum, recording fees and a reasonable attorneys' fee.
2. Should the lien remain unpaid, the Town Tax Collector, Clerk or other officer authorized by the Mayor and Board of Council shall have the power to foreclose the property to collect the amount of the lien, together with interest, attorney's fees and recording fees pursuant to N.J.S.A. 54:5-19 et seq., and other applicable laws of the State of New Jersey.

§ 26-3.5 Waiver of Fees.

Any board, agency, committee, or entity of the Town of Guttenberg may make application to the Planning Board without the requirement for making payment of any of the fees hereinabove provided. Notwithstanding any other provision of this subsection to the contrary, the Planning Board may waive any base application fees or supplemental base application fees, or portions thereof as hereinabove provided, for nonprofit organizations and other organizations, persons or entities where it is deemed to be in the best interests of the Town of Guttenberg; provided, however, that the Planning Board shall not be empowered to waive the making of a review fee escrow deposit absent the concurrence of the Mayor and Board of Council, which concurrence shall be expressed in a formal resolution of the Mayor and Board of Council adopted by two-thirds (2/3) of the full membership thereof.

§ 26-3A SUBMISSION OF APPLICATION.

§ 26-3A.1 Application Form.

All applications for minor subdivisions, preliminary and final major subdivisions, minor site plan approval, preliminary and final major site plan approval, appeals, and any other application to the Planning Board shall in a form adopted by the Planning Board.

§ 26-3A.2 Application Fees.

All applications shall be accompanied by the fees and escrow deposits set forth in Section 26-3 of this Chapter.

§ 26-3A.3 Number and Format of Application.

The applicant shall file an original and two (2) copies of the application together with all maps, plans, reports, and other supporting materials with the Planning Board Secretary. The applicant shall also transmit one (1) copy of the application together with all maps, plans, reports, and other supporting materials to the Board Attorney and such other professionals who have been retained by the Planning Board. The applicant shall also provide an electronic copy of all application documents in readable portable document file (pdf) format.

§ 26-3A-4 Completeness Checklist.

All applications shall be accompanied by a completeness checklist for those items identified in Chapter 27 pertaining to each specific application.

§ 26-4 PERFORMANCE AND MAINTENANCE GUARANTEES.

§ 26-4.1 Developer's Agreement.

With respect to all applications for subdivision and site plan approval, the Planning Board shall condition any such approval upon the execution of a developer's agreement between the Town of Guttenberg and the applicant specifying, in part, off-site, on-tract or off-tract improvements, public improvements, bonding requirements, escrow requirements, other conditions imposed by the Town and such other terms and conditions as the Town deems appropriate. The Planning Board may waive the requirement of a developer's agreement in appropriate circumstances. Unless so waived, no certificate of occupancy or building permit shall be issued respecting any application for development requiring subdivision or site plan approval unless the applicant has entered into a developer's agreement of a form specified herein.

§ 26-4.2 Furnishing of Performance Guarantees; Improvements.

- a. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, or as a condition of approval of a permit update under the State Uniform Construction Code for the purpose of updating the name and address of the owner of property on a construction permit, the Town shall require and shall accept in accordance with the standards set forth hereinbelow and regulations adopted pursuant to N.J.S.A. 40:55D-53(a) for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee as set forth in this section.
 1. The developer shall furnish a performance guarantee in favor of the Town in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Town Engineer, according to the method

of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat:

- (a) Streets.
 - (b) Pavement.
 - (c) Gutters.
 - (d) Curbs.
 - (e) Sidewalks.
 - (f) Street lighting.
 - (g) Street trees.
 - (h) All content required by N.J.S.A. 46:26B-1 -8.
 - (i) Water mains.
 - (j) Sanitary sewers.
 - (k) Community septic systems.
 - (l) Drainage structures.
 - (m) Public improvements of open space.
 - (n) Any grading necessitated by the preceding improvements.
- 2. The developer shall also furnish a performance guarantee to include, within an approved phase or section of a development, privately owned perimeter buffer landscaping, as required by the Town Code or imposed as a condition of approval. At a developer's option, a separate performance guarantee may be posted for the privately held perimeter buffer landscaping.
 - 3. The Town Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

§ 26-4.3 Safety and Stabilization.

- a. The developer shall also furnish to the Town a safety and stabilization guarantee in favor of the Town. At the developer's option, a safety and stabilization guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee. A safety and stabilization guarantee shall be available to the Town solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:
 - 1. Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least sixty (60) consecutive days following such commencement for reasons other than force majeure.
 - 2. Work has not recommenced within thirty (30) days following the provision of written notice by the Town to the developer of the Town's intent to claim payment under the guarantee.
 - 3. The Town shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least sixty (60) days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Town shall provide written notice to the developer by certified mail or other form of delivery providing evidence of receipt.
 - 4. The amount of a safety and stabilization guarantee for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

5. The amount of a safety and stabilization bond guarantee for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:
 - (a) Five thousand dollars for the first \$100,000 of bonded improvement costs, plus 2.5% of bonded improvement costs in excess of \$100,000 up to \$1,000,000; plus
 - (b) One percent of bonded improvement costs in excess of \$1,000,000.
6. The Town shall release a separate safety and stabilization guarantee to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this subsection.
7. The Town shall release a safety and stabilization guarantee upon the Town Engineer's or other municipal official's (designated by ordinance) determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

§ 26-4.4 Temporary Certificate of Occupancy; Guarantee.

In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of the Town in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee previously furnished by the developer which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought shall be released. The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Town Engineer or such other municipal official designated by ordinance. The temporary certificate of occupancy guarantee shall be released by the Town Engineer or other municipal official designated by ordinance upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

§ 26-4.5 Acceptance of Performance Guarantee from Successor Developer.

- a. The Town may accept a performance guarantee in favor of the municipality from a successor developer as a replacement for a performance guarantee that was previously furnished, pursuant to N.J.S.A. 40:55D-53, for the purpose of assuring the installation of improvements. The Town shall not accept a replacement performance guarantee without securing:
 1. Written confirmation from the new obligor that the intent of the new obligor is to furnish a replacement performance guarantee, relieving the predecessor obligor and surety, if any, of any obligation to install improvements; and
 2. Written verification from the Town Engineer that the replacement performance guarantee is of an amount sufficient to cover the cost of the installation of

improvements, but not to exceed 120% of the cost of the installation, which verification shall be determined consistent with N.J.S.A. 40:55D-53.

- b. An approving authority shall notify the governing body whenever it accepts a replacement performance guarantee. Notice shall contain a copy of the written confirmation of the new obligor's intent to furnish a replacement performance guarantee and the municipal engineer's written verification of the sufficiency of the amount of that replacement performance guarantee.
- c. Within thirty (30) days after receiving notice from the approving authority of its acceptance of a replacement performance guarantee, the governing body, by resolution, shall release the predecessor obligor from liability pursuant to its performance guarantee.

§ 26-4.6 Maintenance Guarantee.

- a. Prior to the release of a performance guarantee required pursuant to this section, the developer shall post with the Town a maintenance guarantee in an amount not to exceed fifteen percent (15%) of the cost of the installation of the improvements which are being released.
 - 1. The developer shall post with the Town, upon the inspection and issuance of final approval of the following private site improvements by the Town Engineer, a maintenance guarantee in an amount not to exceed fifteen percent (15%) of the cost of the installation of the following private site improvements, which cost shall be determined according to the method of calculation set forth in (N.J.S.A. 40:55D-53.4:
 - (a) Stormwater management basins;
 - (b) In-flow and water quality structures within the basins; and
 - (c) The out-flow pipes and structures of the stormwater management system, if any.
 - 2. The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

§ 26-4.7 Other Agencies; Utilities.

In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Town for such utilities or improvements.

§ 26-4.8 Regulations Concerning Performance Guarantees.

- a. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Town Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.

- b. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Town for the reasonable cost of the improvements not completed or corrected, and the Town may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
- c. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Town Clerk, that the Town Engineer prepare, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Town Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Town Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
 - 1. The list prepared by the Town Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the Town Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to Subsection a of this section.
 - 2. The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Town Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Town Engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty percent (30%) of the amount of the total performance guarantee and safety and stabilization guarantee posted may be retained to ensure completion and acceptability of all improvements. The safety and stabilization guarantee

shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.

3. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bond improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to Subsection a of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the Town may retain 30% of the amount of the total performance guarantee and safety and stabilization guarantee to ensure completion and acceptability of all bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Town below 30%.
 4. If the Town Engineer fails to send or provide the list and report as requested by the obligor pursuant to this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Town Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
 5. If the governing body fails to approve or reject the bonded improvements determined by the Town Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Town Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
 6. In the event that the obligor has made a cash deposit with the Town or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a safety and stabilization guarantee, the Town may retain cash equal to the amount of the remaining safety and stabilization guarantee.
- d. If any portion of the required bonded improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.
 - e. Nothing herein shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Town Engineer.

§ 26-4.9 Regulations Concerning Inspection Fees.

- a. The obligor shall reimburse the Town for reasonable inspection fees paid to the Town Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth hereinbelow. The Town shall require the developer to post the inspection fees in escrow in an amount:
 1. Not to exceed, except for extraordinary circumstances, the greater \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee under this section; and
 2. Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under this section, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.
- b. For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be fifty percent (50%) of the inspection fees. When the balance on deposit drops to ten percent (10%) of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Town Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
- c. For those developments for which the inspection fees are total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be twenty-five percent (25%) of the inspection fees. When the balance on deposit drops to ten percent (10%) of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Town Engineer for inspection, the developer shall make additional deposits of twenty-five percent (25%) of the inspection fees.
- d. If the Town determines that the amount in escrow for the payment of inspection fees, as calculated hereinabove, is insufficient to cover the cost of additional required inspections, the developer shall deposit additional funds in escrow. In such instance, the Town shall deliver to the developer a written inspection escrow deposit request, signed by the Town Engineer, which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

§ 26-4.10 Approved by Stages or Sections.

In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38(a), the provisions of this section shall be applied by stage or section.

§ 26-4.11 Dedication of Improvements to Town.

To the extent that any of the improvements have been dedicated to the Town on the subdivision plat or site plan, the governing body shall be deemed, upon the release of any performance guarantee required pursuant to Subsection a of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Town Engineer.

CHAPTER 26. LAND USE PROCEDURE

§ 26-1 PLANNING BOARD.

§ 26-1.1 Created.

Pursuant to the statutes in such case made and provided, known as the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), there is hereby created the Planning Board of the Town of Guttenberg (hereinafter, the “Planning Board”).

§ 26-1.2 Membership.

The Planning Board shall consist of nine members of the following four classes:

- a. Class I: the Mayor or Mayor's designee.
- b. Class II: one of the officials of the Town, other than a member of the Town Council, to be appointed by the Mayor; provided that if there be an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1, shall be deemed to be the Class II Planning Board member for purposes of this ordinance in the event that there be among the Class IV or alternate members of the Planning Board both a member of the the Board of Education.
- c. Class III: a member of the Town Council to be appointed by the Town Council.
- d. Class IV members: Six other residents of the Town to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position, or employment. Not more than one Class IV member may be a member of the Board of Education. For the purpose of this section, membership on a Town board or commission whose function is advisory in nature, the establishment of which is discretionary and not required by statute, shall not be considered the holding of Town office.

§ 26-1.3 Terms.

The term of the Class I member shall correspond to his or her official tenure as Mayor. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first. The term of a Class IV member who is also a member of the Board of Education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever occurs first. The term of all other Class IV members shall be four years. If a vacancy in any class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term.

§ 26-1.4 Alternate Members.

There shall be up to four alternate members of the Planning Board. The alternate members of the Planning Board shall be appointed by the Mayor and shall serve in accordance with the provisions of N.J.S.A. 40:55D-23.1.

§ 26-1.5 Organization.

The Planning Board shall organize annually at its first meeting of each calendar year by selecting from among its Class IV members a Chairperson and a Vice Chairperson. The Planning Board shall also select a secretary who may or may not be a member of the Board or a municipal employee and create and appoint such other offices as established by ordinance.

§ 26-1.6 Legal Counsel and Other Professional Staff.

The Planning Board may annually appoint an attorney-at-law admitted to practice in the State of New Jersey other than the Town Attorney as Planning Board Attorney and may fix his or her compensation at an amount not exceeding the amount appropriated by the Town Council. The Planning Board may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Planning Board, however, shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the Town Council for its use.

§ 26-1.7 Conflict of Interest.

No member of the Planning Board shall be permitted to act on any matter in which he or she has any personal or financial interest, either directly or indirectly.

§ 26-1.8 Removal.

Any member other than a Class I member, after a public hearing, if requested, may be removed by the Town Council for cause.

§ 26-2 DUTIES OF THE PLANNING BOARD

§ 26-2.1 Powers and Jurisdiction of Planning Board.

- a. **Mandatory Powers.** The Planning Board shall exercise its powers in accordance with the Municipal Land Use Law in regard to:
 1. The Town Master Plan pursuant to N.J.S.A. 40:55D-28 et seq.
 2. Subdivision and site plan review pursuant to the Land Development and Site Plan Review Ordinance pursuant to N.J.S.A. 40:55D-37 et seq.
 3. Any official map adopted by the Town Council pursuant to N.J.S.A. 40:55D-32 et seq.
 4. The zoning ordinance including conditional uses pursuant to the Zoning Ordinance pursuant to N.J.S.A. 40:55D-62 et seq.
 5. Any capital improvements programs pursuant to N.J.S.A. 40:55D-29 et seq.
 6. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to this section.
- b. **Other Powers.** The Planning Board may:
 1. Participate in the preparation and review of programs or plans required by State or Federal law or regulation.

2. Assemble data on a continuing basis as part of a continuous planning process.
 3. Perform such other duties as are assigned to it by ordinance or resolution of the Town Council.
 4. Adopt rules governing the procedures and conduct of meetings.
- c. Planning Board Review In Lieu of Board of Adjustment. Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70(d), the Planning Board, shall have the power to grant to the same extent and subject to the same restrictions as a zoning board of adjustment:
1. Variances pursuant to N.J.S.A. 40:55D-70(c).
 2. Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
 3. Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.
- d. Referral Powers of the Planning Board. Prior to the adoption of a development regulation, revision, or amendment thereto, the Planning Board shall make and transmit to the Town Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed development regulation, revision, or amendment that are inconsistent with the land use plan and the housing element plan of the Town's Master Plan and recommendations concerning these inconsistencies and any other matters as the Planning Board deems appropriate. The Town Council may adopt a zoning ordinance or amendment thereto that in whole or in part is inconsistent with the land use element plan and the housing element plan, but only by an affirmative vote of a majority of the full authorized membership. The Town Council shall state its reasons for doing so in a resolution and recorded in the minutes. Failure of the Planning Board to transmit its report within the thirty-five (35)-day period provided herein shall relieve the Town Council from the requirements of this subsection in regard to the proposed development regulation, revision, or amendment referred to the Planning Board. Nothing in this section shall be construed as diminishing the application of the provisions of N.J.S.A. 40:55D-32 to any official map or an amendment or revision thereto or of N.J.S.A. 40:55D-62 to any zoning ordinance or any amendment or revision thereto.

§ 26-2.3 Findings for Establishment of a Planning Board pursuant to N.J.S.A. 40:55D-25(c)

The Town of Guttenberg has created a Planning Board in accordance with the statutory dictates of N.J.S.A. 40:55D-23 et seq. and created a Zoning Board of Adjustment pursuant to the dictates of N.J.S.A. 40:55D-69 et seq.; and the New Jersey Legislature has amended the Municipal Land Use Law, known as N.J.S.A. 40:55D-1 et seq., so as to allow municipalities with populations less than 15,000 residents, the option of creating a Planning Board and vesting the same powers of the Zoning Board of Adjustment in the Planning Board.

The amendment is delineated in N.J.S.A. 40:55D-25(c), which states in part that a municipality having a population of 15,000 or less, may create a nine-member Planning Board with four alternates, which shall exercise to the same extent and subject to the same restrictions, all of the powers of a Zoning Board of Adjustment; but the Class I and III members (Mayor and Council person) shall not participate

in the consideration of applications for development which involve relief pursuant to Subsection d of N.J.S.A. 40:55D-70.

The intent and purpose of the amendment is to allow for the selection of members to a Planning Board willing to comply with the requirements imposed upon Planning Board members in complying with the ethics disclosure statement and requiring compliance with all of the dictates of the Statutes anent the position of Planning Board member.

The legislative branch of the State took into consideration the difficulties of filling all the regular and alternate positions on the voluntary Zoning Board of Adjustment and a Planning Board and the potential negative effect this hardship had on the municipalities and applicants who sought relief from the appropriate board.

The further intent of the legislative branch of the State was to lessen the costs of operating two separate and diverse Boards and such financial outlay was considered severe and a hardship on local municipalities and their respective governing bodies.

The Planning Board and Zoning Board of Adjustment of the Town of Guttenberg had a limited number of applications filed and heard, and further, the financial expenditures for each respective Board were still tendered for that period of time pursuant to the various expenses of the Boards and the financial savings attendant to the adoption and creation of a single Planning Board is self-evident and beneficial to Guttenberg, this financial consideration being a major factor and determinative of the intent of the legislative branch.

§ 26-2.4 Duties Delineated in N.J.S.A. 40:55D-25(c).

In addition to those powers and duties enumerated in Section 26-2.1, when the Planning Board is convened as a zoning board of adjustment, the Planning Board shall have the following powers pursuant to N.J.S.A. 40:55D-25(c). All references in the following subparagraphs to the Planning Board shall be construed as the Planning Board when exercising the powers and performing the functions of a zoning board of adjustment.

- a. Appeals. Hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by the Zoning Officer or any other Town Official, based on or made in the enforcement of the Zoning Ordinance or Official Map.
- b. Interpretations. Hear and decide requests for interpretation of the Zoning Ordinance or Zoning Map or for decisions upon other special questions upon which such Board is authorized to pass by any Zoning or Official Map Ordinance in accordance with the Municipal Land Use Law.
- c. Bulk and Dimensional Variances:
 1. Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, the

Board may grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; or

2. Where in an application or appeal relating to a specific piece of property the purposes of zoning set forth in N.J.S.A. 40:55D-2 would be advanced by a deviation from the Zoning Ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, the Planning Board may grant a variance to allow departure from such zoning requirements, provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection, and provided that no variance from those departures enumerated in this section shall be granted under this subsection; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has the power to review a request for a variance pursuant to N.J.S.A. 40:55D-60(a).
- d. "d" Variances. Pursuant to N.J.S.A. 40:55D-70(d), in particular cases and for special reasons, the Board may grant a variance to allow departure from zoning regulations to permit (1) a use or principal structure in a district restricted against such use or principal structure, (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, (5) an increase in the permitted density as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision, or (6) a height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by an affirmative vote of at least five members.
- e. Additional Powers. Pursuant to this section, the Planning Board shall have the following additional powers:
1. To direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin, or public area reserved pursuant to N.J.S.A. 40:55D-32.
 2. To direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.
 3. To grant to the same extent and subject to the same restrictions as the Planning Board subdivision or site plan approval or conditional use approval whenever the proposed development requires approval by the Planning Board of a variance pursuant to this section of this Chapter. The developer may elect to submit a separate application requesting approval of the variance and a subsequent application for any required approval of a subdivision, site plan or conditional use. The Planning Board shall condition the separate approval of the variance upon grant of all required subsequent approvals of a site plan or subdivision. No such subsequent approval shall be granted unless such approval can be granted without substantial impairment to the public good and without substantial impairment to the intent and purpose of the zone plan and zoning ordinance. The number of votes of Planning Board members required to grant any such subsequent approval shall be as otherwise provided in this chapter for the

approval in question, and the special vote pursuant to N.J.S.A. 40:55D-70(d) shall not be required.

§ 26-2.5 Standards for Consideration.

- a. Relief Not Enumerated As a "d" Variance to be Decided Under Bulk and Dimensional Variance Criteria. If an application for development requests one or more variances but not a "d" variance, the decision on the requested variance or variances shall be rendered under the bulk and dimensional variance criteria.
- b. Requirement For Showing of No Substantial Detriment. No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the Zone plan and Zoning Ordinance.
- c. Referral of Application to Other Agencies. An application under this section may be referred to any appropriate person or agency for its report; provided that such reference shall not extend the period of time within which the Planning Board shall act.

§ 26-2.6 Annual Report on Variances Heard by the Planning Board.

The Planning Board shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Planning Board shall send copies of the report and resolution to the Mayor, Town Council, and the Town Clerk.

§ 26-2.7 Subdivision and Site Plan Committee.

The Chairperson of the Planning Board may appoint a Subdivision and Site Plan Committee. The Committee shall consist of at most three (3) Planning Board members and such technical and other staff members as the Chairperson may deem appropriate. The purposes of the Committee shall be as follows:

- a. To review, comment and make recommendations with respect to subdivision and site plan applications.
- b. To act on minor subdivision and minor site plan applications pursuant to N.J.S.A. 40:55D-47 and N.J.S.A. 40:55D-46.1 provided that no variances are required pursuant to Chapter 28 of the Town Code of the Town of Guttenberg.
- c. To perform other advisory activities and duties conferred upon it by the Planning Board through a motion duly adopted and recorded.

§ 26-3 DEVELOPMENT APPLICATION FEES.

§ 26-3.1 Purpose.

The purpose of this section is to provide for the establishment of a fee schedule for the payment of fees with respect to all applications submitted to the Town of Guttenberg pursuant to the Town's zoning and land use regulations.

§ 26-3.2 Procedures.

a. Administration of Fees and Escrow Deposits.

1. Application fees covering administration and overhead shall be charged to the applicant and shall be submitted at the time of an application for a review or hearing by the Planning Board.
2. In addition to the fees to be paid herein, the applicant shall submit escrow deposits at the time of submission of an application for a review or hearing by the Planning Board.
3. All application fees and escrow funds shall be paid in cash, certified check, attorney's check, or money order made payable to the Town of Guttenberg. Application fees and escrow funds shall be paid to the Town with separate certified checks or money orders. Along with the application fees and escrow funds, the applicant shall submit a letter breaking out the totals into its component parts, pursuant to Subsections 4 and 5 below.
4. Where an application involves more than one of the categories itemized below, the fees and escrow deposit applicable to each category shall be required.
5. The escrow funds shall be deposited into a separate trust account by the Town, pursuant to N.J.S.A. 40:55D-53.1, and if the deposit amount required is greater than \$5,000, interest will accrue to the applicant. Disbursements may be made from the escrow fund only after approval by the Town of Guttenberg's Chief Financial Officer.
6. Escrow funds shall be placed in an escrow account by the Chief Financial Officer of the Town. Such funds shall be used to pay the Planning Board Attorney, Professional Engineer, Professional Planner, Traffic Engineer, and other experts deemed necessary to review and comment on the application. Said experts shall submit vouchers to the Town for all reasonable and necessary fees for review of the application, which fees shall be paid from the escrow account in a manner prescribed in N.J.S.A. 40:55D-53.2(e) and N.J.S.A. 40A:5-16 through 40A:5-18.
7. Where the review costs exceed the escrow deposit fee, the applicant shall pay the additional amount within fifteen (15) days of the request. Failure to remit the additional required deposit within the requested timeline shall render the application incomplete, and no further action or proceedings shall be taken by the Planning Board until after compliance. Where the review costs are less than the amount of the escrow deposit, the difference shall be returned to the applicant within 120 days of final disposition of the application.
8. In the event that an application is withdrawn, application fees are nonrefundable, but any escrow funds remaining at the time of withdrawal shall be returned to the applicant. If the same application is resubmitted at a later time, the applicant shall be required to repay all application fees and establish a new escrow account.
9. An application is deemed incomplete until all application fees and escrow deposits are submitted.
10. No construction shall commence, nor shall a certificate of occupancy be issued, until the inspection fees required by Subsection 26-3.3d of this section have been submitted.

§ 26-3.3 Schedule of Fees and Escrow Deposits.

a. Site Plan or Subdivision.
1. Application Fees.

(a)	Minor site plan	\$500
(b)	Preliminary residential site plan	\$500, plus \$50 per dwelling unit
(c)	Preliminary site plan under 5,000 square feet	\$500
(d)	Preliminary site plan between 5,000 and 9,999 feet	\$1,000, plus \$50 for every 1,000 square feet
(e)	Preliminary site plan between 10,000 and 25,000 square feet	\$1,500, plus \$50 for every 1,000 square feet
(f)	Preliminary site plan over 25,000 square feet	\$2,000, plus \$50 for every 1,000 square feet
(g)	Final site plan	50% of preliminary site plan fee
(h)	Amendment or extension of preliminary or final site plan	\$500
(i)	Minor subdivision	\$500, plus \$100 per lot
(j)	Preliminary major subdivision	\$500, plus \$100 per lot
(k)	Final major subdivision	\$500, plus \$50 per lot
(l)	Amendment or extension of preliminary or final subdivision	\$500

2. Escrow Deposits.

(a)	Minor site plan	1,000
(b)	Preliminary residential site plan	\$1,000, plus \$100 per dwelling unit
(c)	Preliminary site plan under 5,000 square feet	\$1,000
(d)	Preliminary site plan between 5,000 and 9,999 feet	\$3,000
(e)	Preliminary site plan between 10,000 and 25,000 square feet	\$4,000
(f)	Preliminary site plan over 25,000 square feet	\$5,000
(g)	Final site plan	50% of preliminary site plan fee
(h)	Amendment or extension of preliminary or final site plan	\$1,000
(i)	Minor subdivision	\$1,000
(j)	Preliminary major subdivision	\$2,500
(k)	Final major subdivision (three to five lots)	\$3,000
(l)	Final major subdivision (over five lots)	\$5,000
(m)	Amendment or extension of preliminary or final subdivision	\$1,000

b. Appeals, Interpretations, and Variances.
1. Application Fees.

(a)	Hear and decide appeals, pursuant to N.J.S.A. 40:55D-70(a)	\$300
(b)	Hear and decide interpretation of the Zoning Map or Ordinance, pursuant to N.J.S.A. 40:55D-70(b)	\$300
(c)	Variance pursuant to N.J.S.A. 40:55D-70(c)	\$300 for the first variance, \$150 for each additional variance
(d)	Variance pursuant to N.J.S.A. 40:55D-70(d)	\$500 for the first variance, \$250 for each additional variance

2. Escrow Deposits.

(a)	Hear and decide appeals, pursuant to N.J.S.A. 40:55D-70(a)	\$500
(b)	Hear and decide interpretation of the Zoning Map or Ordinance, pursuant to N.J.S.A. 40:55D-70(b)	\$500
(c)	Variance pursuant to N.J.S.A. 40:55D-70(c)	\$1,000 if not part of site plan or subdivision
(d)	Variance pursuant to N.J.S.A. 40:55D-70(d)	\$1,000 if not part of site plan or subdivision

c. Other Fees.

1. Application Fees.

(a)	Special meeting	\$1,000
(b)	Informal or concept reviews	\$250
(c)	Requests for extensions	\$250

2. Escrow Deposits.

(a)	Special meeting	\$1,000
(b)	Informal or concept reviews	\$500

d Inspection Fees. Inspection fees for drainage, paving, landscaping, curbing, and other improvements which relate to matters involving public facilities: The greater of \$100 or 10% of the cost of the improvements.

e. Application Fees for Building Permit.

(a)	For construction less than \$350,000	\$200
(b)	For construction of \$350,000 to \$750,000	\$300
(c)	For construction from \$750,000 to \$1,500,000	\$400
(d)	For construction of \$1,500,000 and over	\$500

§ 26-3.4 Escrow Fees for Professional Review and Expert Witness.

- a. Escrow Deposits. The Planning Board shall require, in addition to its base application fees, escrow deposits in accordance with the provisions of this section. Such deposits shall be utilized to pay the cost of any professional services incurred by professionals retained by the Planning Board for the review of an application for development to the Planning Board. The Town shall make all of the payments to professionals for services rendered to the municipality for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. The deposit received from an applicant shall be placed in an escrow account pursuant to the provisions of N.J.S.A. 40:55D-53.1. Such deposit shall be utilized to pay the cost of any professional services incurred for the review of an application for development to the Board and may also be utilized to pay the cost of review and testimony by an expert witness or witnesses retained by the municipal agency. All payments charged to the deposit shall be pursuant to vouchers from the professionals stating the hours spent, the hourly rate and the expenses incurred. The municipality shall render a written final accounting to the applicant on the uses to which the deposit was put. Thereafter the municipality shall, upon written request, provide copies of the vouchers to the developer. Payment due professionals retained by the municipality shall be made upon receipt of adequate moneys from applicants for development.
- b. Professional Services Defined. The term “professional services,” as utilized herein, shall include the services of a duly licensed engineer, surveyor, planner, attorney, scientist, realtor, appraiser, certified shorthand reporter, or other professional or expert who provided services for review, advice, preparation of reports and expert testimony, for inspection of the property and surrounding area and for tests performed, in order to assist the Planning Board in the review of the application before it.
- c. Amount of Escrow. Subject to the provisions of paragraph d below, each applicant shall, prior to his or her or its application being ruled complete pursuant to the provisions of the Municipal Land Use Law and this section, submit the sums requested by Section 26-3.3 to the Chief Financial Officer of the Town of Guttenberg.
- d. Completeness of Application; Escrow Fees.
 1. Within forty-five (45) days after the filing of an application for development, the Planning Board or its authorized committee or designee, as the case may be, shall, in connection with the appropriate representatives of the staff of the Town of Guttenberg, review said application for development to determine whether the escrow amount set forth above is adequate. In conducting such review, said Planning Board shall consider the following criteria:
 - (a) The presence or absence of public water or sewer servicing the site.
 - (b) Environmental considerations, including but not limited to geological, hydrological, and ecological factors.
 - (c) The traffic impact of the proposed development.

- (d) The impact of the proposed development on existing water quality.
 - (e) Any other unique land use concerns relating to the application.
- 2. Upon completion of said review and within said forty-five (45)-day period, the Planning Board or its authorized committee shall adopt a resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event that the Planning Board or its authorized committee shall determine that the amount is excessive, it shall in the resolution specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event that the Planning Board or its authorized committee shall determine that the amount specified above is insufficient, it shall so specify and shall further set forth the amount required to be posted in light of the criteria specified herein.
- 3. No application for development shall be deemed complete until such time as the applicant shall have posted with the Town of Guttenberg in cash, certified check, or money order the amount of escrow deposit determined by the Planning Board to be required in accordance with the provisions of this section.
- e. Additional Escrow Deposits.
 - 1. The Board may require additional escrow deposits by the applicant to be posted during the course of the review of an application, provided that:
 - (a) The original amounts escrowed pursuant to this section have been exhausted; and
 - (b) Additional professional services or expert services must reasonably be incurred because of the presence of one or more factors enumerated in paragraph d above, in order to complete the review of the application and to properly decide the same.
 - 2. In the event that additional escrow moneys are required they shall not be deemed items required for the application to be complete but may be required as additional information reasonably required to decide the application. Their payment shall be required as a condition of any approval granted.
- f. Charge for Certain Professional Services to the Applicant. Applicants shall be responsible to reimburse the Town with regard to certain specific professional services in accordance with the following:
 - 1. The applicant shall be required to reimburse the Town for the cost of attendance by the Town's professional personnel at any meeting of the Town agency or board at which a hearing is held on the application. However, where hearings on other applications are held at the same meeting at which the attendance of the Town's professional personnel are also required, the cost of the attendance of the Town's professional personnel shall be reimbursed to the Town on a pro rata basis.
 - 2. The Town shall be entitled to be reimbursed for attendance of its professional personnel at special meetings of a Town agency or Board which were requested to be called by the applicant.
 - 3. The applicant shall pay for the review of any revisions of the applications or maps in the event that the application is declared incomplete.
 - 4. The cost of the preparation of a resolution or memorializing resolution setting forth the findings of fact and conclusions of law of the Town agency or board with respect to an application shall be reimbursable to the Town.

5. The fees for other professional services incurred by the Board shall be reimbursed by the applicant to the Town.
- g. Reasonable Charges for Professional and Expert Services. No professional personnel submitting charges to the Town for any of the services referred to in this subsection shall charge for any of the services at any higher rate or in any different manner than would normally be charged the Town for similar work, as ascertained by the professional's contract of employment with the Town or by provisions of the Municipal Salary Ordinance. The charges shall be reasonable.
- h. Deposit of Escrow Funds; Refunds. Deposits received from any applicant shall be held by the Chief Financial Officer of the Town in a special interest-bearing deposit account, and upon receipt of bills for professionals duly approved by the Planning Board, or governing body, as appropriate, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. All sums not actually so expended and any interest earned thereon shall be refunded to the applicant within sixty (60) days after the final decision by the Planning Board with respect to such application, upon certification by the Board Secretary that such application has been finally decided and all professional fees have been paid.
- i. Reimbursement for Inspection of Improvements. The applicant shall reimburse the Town for all reasonable inspection fees paid to the Town Engineer for the inspection or testing of improvements. The Town may require the applicant to make a deposit for all or a portion of the reasonably anticipated fees to be paid for the Town Engineer for such inspections pursuant to N.J.S.A. 40:55D-53(h).
- j. Inspection of Improvements. All of the improvements in a subdivision or site plan shall be inspected and approved by the Town Engineer. The subdivider or his, her or its agent, employee or contractor shall notify the Town Engineer and the Secretary of the reviewing Town Board when the work is ready for any required inspection specified herein or required to be performed by the Town Engineer, the Construction Official or the appropriate subcode official. This notice shall be given at least forty-eight (48) hours prior to the time the inspection is desired. The inspection shall be performed within three business days of the time for which it was requested; however, failure to inspect within three business days shall in no way constitute approval of the work. The work shall not proceed in a manner which shall preclude the inspection until it has been made. No underground installation shall be covered until inspected and approved.
- k. Liens on Property.
 1. Should any fees for applications for development, expert witness fees, consultant's fees, review fees, inspection fees, or fees of any nature connected with an application for development be due and unpaid by an applicant for development and/or owner of a subject property for a period of fourteen (14) days after written notice of the amount due was mailed to the owner and applicant, the Town Clerk or Mayor or Assistant Clerk or other officer or employee of the Town of Guttenberg may execute a written statement of lien showing the amount due to the Town and may record the same in the Hudson County Register's and/or Clerk's office as a lien on the subject property. The lien shall include interest at the rate of twelve percent (12%) per annum, recording fees and a reasonable attorneys' fee.
 2. Should the lien remain unpaid, the Town Tax Collector, Clerk or other officer authorized by the Mayor and Board of Council shall have the power to foreclose the property to collect the amount of the lien, together with interest, attorney's

fees and recording fees pursuant to N.J.S.A. 54:5-19 et seq., and other applicable laws of the State of New Jersey.

§ 26-3.5 Waiver of Fees.

Any board, agency, committee, or entity of the Town of Guttenberg may make application to the Planning Board without the requirement for making payment of any of the fees hereinabove provided. Notwithstanding any other provision of this subsection to the contrary, the Planning Board may waive any base application fees or supplemental base application fees, or portions thereof as hereinabove provided, for nonprofit organizations and other organizations, persons or entities where it is deemed to be in the best interests of the Town of Guttenberg; provided, however, that the Planning Board shall not be empowered to waive the making of a review fee escrow deposit absent the concurrence of the Mayor and Board of Council, which concurrence shall be expressed in a formal resolution of the Mayor and Board of Council adopted by two-thirds (2/3) of the full membership thereof.

§ 26-3A SUBMISSION OF APPLICATION.

§ 26-3A.1 Application Form.

All applications for minor subdivisions, preliminary and final major subdivisions, minor site plan approval, preliminary and final major site plan approval, appeals, and any other application to the Planning Board shall in a form adopted by the Planning Board.

§ 26-3A.2 Application Fees.

All applications shall be accompanied by the fees and escrow deposits set forth in Section 26-3 of this Chapter.

§ 26-3A.3 Number and Format of Application.

The applicant shall file an original and two (2) copies of the application together with all maps, plans, reports, and other supporting materials with the Planning Board Secretary. The applicant shall also transmit one (1) copy of the application together with all maps, plans, reports, and other supporting materials to the Board Attorney and such other professionals who have been retained by the Planning Board. The applicant shall also provide an electronic copy of all application documents in readable portable document file (pdf) format.

§ 26-3A-4 Completeness Checklist.

All applications shall be accompanied by a completeness checklist for those items identified in Chapter 27 pertaining to each specific application.

§ 26-4 PERFORMANCE AND MAINTENANCE GUARANTEES.

§ 26-4.1 Developer's Agreement.

With respect to all applications for subdivision and site plan approval, the Planning Board shall condition any such approval upon the execution of a developer's agreement between the Town of Guttenberg and the applicant specifying, in part, off-site, on-tract or off-tract improvements, public improvements, bonding requirements, escrow requirements, other conditions imposed by the Town and such other terms and conditions as the Town deems appropriate. The Planning Board may waive the requirement of a developer's agreement in appropriate circumstances. Unless so waived, no certificate of occupancy or building permit shall be issued respecting any application for development requiring subdivision or site plan approval unless the applicant has entered into a developer's agreement of a form specified herein.

§ 26-4.2 Furnishing of Performance Guarantees; Improvements.

- a. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to N.J.S.A. 40:55D-65, or as a condition of approval of a permit update under the State Uniform Construction Code for the purpose of updating the name and address of the owner of property on a construction permit, the Town shall require and shall accept in accordance with the standards set forth hereinbelow and regulations adopted pursuant to N.J.S.A. 40:55D-53(a) for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee as set forth in this section.
 1. The developer shall furnish a performance guarantee in favor of the Town in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Town Engineer, according to the method of calculation set forth in N.J.S.A. 40:55D-53.4, for the following improvements as shown on the approved plans or plat:
 - (a) Streets.
 - (b) Pavement.
 - (c) Gutters.
 - (d) Curbs.
 - (e) Sidewalks.
 - (f) Street lighting.
 - (g) Street trees.
 - (h) All content required by N.J.S.A. 46:26B-1 -8.
 - (i) Water mains.
 - (j) Sanitary sewers.
 - (k) Community septic systems.
 - (l) Drainage structures.
 - (m) Public improvements of open space.
 - (n) Any grading necessitated by the preceding improvements.
 2. The developer shall also furnish a performance guarantee to include, within an approved phase or section of a development, privately owned perimeter buffer landscaping, as required by the Town Code or imposed as a condition of approval. At a developer's option, a separate performance guarantee may be posted for the privately held perimeter buffer landscaping.

3. The Town Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

§ 26-4.3 Safety and Stabilization.

- a. The developer shall also furnish to the Town a safety and stabilization guarantee in favor of the Town. At the developer's option, a safety and stabilization guarantee may be furnished either as a separate guarantee or as a line item of the performance guarantee. A safety and stabilization guarantee shall be available to the Town solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:
 1. Site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least sixty (60) consecutive days following such commencement for reasons other than force majeure.
 2. Work has not recommenced within thirty (30) days following the provision of written notice by the Town to the developer of the Town's intent to claim payment under the guarantee.
 3. The Town shall not provide notice of its intent to claim payment under a safety and stabilization guarantee until a period of at least sixty (60) days has elapsed during which all work on the development has ceased for reasons other than force majeure. The Town shall provide written notice to the developer by certified mail or other form of delivery providing evidence of receipt.
 4. The amount of a safety and stabilization guarantee for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.
 5. The amount of a safety and stabilization bond guarantee for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:
 - (a) Five thousand dollars for the first \$100,000 of bonded improvement costs, plus 2.5% of bonded improvement costs in excess of \$100,000 up to \$1,000,000; plus
 - (b) One percent of bonded improvement costs in excess of \$1,000,000.
 6. The Town shall release a separate safety and stabilization guarantee to a developer upon the developer's furnishing of a performance guarantee which includes a line item for safety and stabilization in the amount required under this subsection.
 7. The Town shall release a safety and stabilization guarantee upon the Town Engineer's or other municipal official's (designated by ordinance) determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

§ 26-4.4 Temporary Certificate of Occupancy; Guarantee.

In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee," in favor of

the Town in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building or phase of development and which are not covered by an existing performance guarantee. Upon posting of a temporary certificate of occupancy guarantee, all sums remaining under a performance guarantee previously furnished by the developer which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought shall be released. The scope and amount of the temporary certificate of occupancy guarantee shall be determined by the Town Engineer or such other municipal official designated by ordinance. The temporary certificate of occupancy guarantee shall be released by the Town Engineer or other municipal official designated by ordinance upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

§ 26-4.5 Acceptance of Performance Guarantee from Successor Developer.

- a. The Town may accept a performance guarantee in favor of the municipality from a successor developer as a replacement for a performance guarantee that was previously furnished, pursuant to N.J.S.A. 40:55D-53, for the purpose of assuring the installation of improvements. The Town shall not accept a replacement performance guarantee without securing:
 1. Written confirmation from the new obligor that the intent of the new obligor is to furnish a replacement performance guarantee, relieving the predecessor obligor and surety, if any, of any obligation to install improvements; and
 2. Written verification from the Town Engineer that the replacement performance guarantee is of an amount sufficient to cover the cost of the installation of improvements, but not to exceed 120% of the cost of the installation, which verification shall be determined consistent with N.J.S.A. 40:55D-53.
- b. An approving authority shall notify the governing body whenever it accepts a replacement performance guarantee. Notice shall contain a copy of the written confirmation of the new obligor's intent to furnish a replacement performance guarantee and the municipal engineer's written verification of the sufficiency of the amount of that replacement performance guarantee.
- c. Within thirty (30) days after receiving notice from the approving authority of its acceptance of a replacement performance guarantee, the governing body, by resolution, shall release the predecessor obligor from liability pursuant to its performance guarantee.

§ 26-4.6 Maintenance Guarantee.

- a. Prior to the release of a performance guarantee required pursuant to this section, the developer shall post with the Town a maintenance guarantee in an amount not to exceed fifteen percent (15%) of the cost of the installation of the improvements which are being released.
 1. The developer shall post with the Town, upon the inspection and issuance of final approval of the following private site improvements by the Town Engineer, a maintenance guarantee in an amount not to exceed fifteen percent (15%) of the cost of the installation of the following private site improvements, which cost

shall be determined according to the method of calculation set forth in (N.J.S.A. 40:55D-53.4:

- (a) Stormwater management basins;
 - (b) In-flow and water quality structures within the basins; and
 - (c) The out-flow pipes and structures of the stormwater management system, if any.
2. The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

§ 26-4.7 Other Agencies; Utilities.

In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Town for such utilities or improvements.

§ 26-4.8 Regulations Concerning Performance Guarantees.

- a. The time allowed for installation of the bonded improvements for which the performance guarantee has been provided may be extended by the governing body by resolution. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation, which cost shall be determined by the Town Engineer according to the method of calculation set forth in N.J.S.A. 40:55D-53.4 as of the time of the passage of the resolution.
- b. If the required bonded improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the Town for the reasonable cost of the improvements not completed or corrected, and the Town may either prior to or after the receipt of the proceeds thereof complete such improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.
- c. Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the governing body in writing, by certified mail addressed in care of the Town Clerk, that the Town Engineer prepare, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section, a list of all uncompleted or unsatisfactory completed bonded improvements. If such a request is made, the obligor shall send a copy of the request to the Town Engineer. The request shall indicate which bonded improvements have been completed and which bonded improvements remain uncompleted in the judgment of the obligor. Thereupon the Town Engineer shall inspect all bonded improvements covered by obligor's request and shall file a detailed list and report, in writing, with the governing body, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.
 - 1. The list prepared by the Town Engineer shall state, in detail, with respect to each bonded improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature

and extent of, and remedy for, the unsatisfactory state of each completed bonded improvement determined to be unsatisfactory. The report prepared by the Town Engineer shall identify each bonded improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory bonded improvement, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to Subsection a of this section.

2. The governing body, by resolution, shall either approve the bonded improvements determined to be complete and satisfactory by the Town Engineer, or reject any or all of these bonded improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section. This resolution shall be adopted not later than 45 days after receipt of the list and report prepared by the Town Engineer. Upon adoption of the resolution by the governing body, the obligor shall be released from all liability pursuant to its performance guarantee with respect to those approved bonded improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved; provided that thirty percent (30%) of the amount of the total performance guarantee and safety and stabilization guarantee posted may be retained to ensure completion and acceptability of all improvements. The safety and stabilization guarantee shall be reduced by the same percentage as the performance guarantee is being reduced at the time of each performance guarantee reduction.
3. For the purpose of releasing the obligor from liability pursuant to its performance guarantee, the amount of the performance guarantee attributable to each approved bond improvement shall be reduced by the total amount for each such improvement, in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to Subsection a of this section, including any contingency factor applied to the cost of installation. If the sum of the approved bonded improvements would exceed 70% of the total amount of the performance guarantee, then the Town may retain 30% of the amount of the total performance guarantee and safety and stabilization guarantee to ensure completion and acceptability of all bonded improvements, as provided above, except that any amount of the performance guarantee attributable to bonded improvements for which a temporary certificate of occupancy guarantee has been posted shall be released from the performance guarantee even if such release would reduce the amount held by the Town below 30%.
4. If the Town Engineer fails to send or provide the list and report as requested by the obligor pursuant to this section within 45 days from receipt of the request, the obligor may apply to the court in a summary manner for an order compelling the Town Engineer to provide the list and report within a stated time and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.

5. If the governing body fails to approve or reject the bonded improvements determined by the Town Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within 45 days from the receipt of the Town Engineer's list and report, the obligor may apply to the court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Town Engineer and appended to the performance guarantee pursuant to this section; and the cost of applying to the court, including reasonable attorney's fees, may be awarded to the prevailing party.
6. In the event that the obligor has made a cash deposit with the Town or approving authority as part of the performance guarantee, then any partial reduction granted in the performance guarantee pursuant to this subsection shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee, provided that if the developer has furnished a safety and stabilization guarantee, the Town may retain cash equal to the amount of the remaining safety and stabilization guarantee.
- d. If any portion of the required bonded improvements is rejected, the approving authority may require the obligor to complete or correct such improvements and, upon completion or correction, the same procedure of notification, as set forth in this section shall be followed.
- e. Nothing herein shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the governing body or the Town Engineer.

§ 26-4.9 Regulations Concerning Inspection Fees.

- a. The obligor shall reimburse the Town for reasonable inspection fees paid to the Town Engineer for the foregoing inspection of improvements; which fees shall not exceed the sum of the amounts set forth hereinbelow. The Town shall require the developer to post the inspection fees in escrow in an amount:
 1. Not to exceed, except for extraordinary circumstances, the greater \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee under this section; and
 2. Not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under this section, which cost shall be determined pursuant to N.J.S.A. 40:55D-53.4.
- b. For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be fifty percent (50%) of the inspection fees. When the balance on deposit drops to ten percent (10%) of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Town Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees.
- c. For those developments for which the inspection fees are total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be twenty-five percent (25%) of the inspection fees. When the balance on deposit drops to ten percent (10%) of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to

the Town Engineer for inspection, the developer shall make additional deposits of twenty-five percent (25%) of the inspection fees.

- d. If the Town determines that the amount in escrow for the payment of inspection fees, as calculated hereinabove, is insufficient to cover the cost of additional required inspections, the developer shall deposit additional funds in escrow. In such instance, the Town shall deliver to the developer a written inspection escrow deposit request, signed by the Town Engineer, which informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.

§ 26-4.10 Approved by Stages or Sections.

In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38(a), the provisions of this section shall be applied by stage or section.

§ 26-4.11 Dedication of Improvements to Town.

To the extent that any of the improvements have been dedicated to the Town on the subdivision plat or site plan, the governing body shall be deemed, upon the release of any performance guarantee required pursuant to Subsection a of this section, to accept dedication for public use of streets or roads and any other improvements made thereon according to site plans and subdivision plats approved by the approving authority, provided that such improvements have been inspected and have received final approval by the Town Engineer.

Ordinance#14-26 Introduction Vote

A motion to introduce was made by Councilperson Fundora and seconded by Councilperson Habermann Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

ORDINANCE #15-23
INTRODUCTION

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY

AN ORDINACE AMENDING CHAPTER 27 OF THE TOWN CODE, ENTITLED “LAND SUBDIVISION AND SITE PLAN REVIEW”

WHEREAS, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., the Town Council is empowered to adopt ordinances pertaining to standards for subdivision and site plan review and approval; and

WHEREAS, Chapter 27 of the Town Code, entitled “Land Subdivision and Site Plan Review,” among other things, provides standards and requirements for preliminary and final major subdivision approval, minor subdivision approval, design standards, preliminary and final major site plan approval, and minor site plan approval; and

WHEREAS, since its initial adoption in 1989, Chapter 27 and other provisions of the Town Code have been amended and supplemented from time to time; and

WHEREAS, the Town Council and Mayor had determined to undertake a comprehensive revision of the Town Code provisions relating to land use and procedure, specifically, Chapter 26, entitled “Land Use Procedure,” Chapter 27, and Chapter 28, entitled “Zoning,” for the purpose of providing general updates, eliminating obsolete provisions, and reorganizing the provisions thereof in a manner more consistent with the provisions of the Town Code; and

WHEREAS, on December 18, 2024, the Town Council and Mayor adopted at second reading Ordinance #30-24, entitled “Amending Chapter 27 of the Town Code Concerning Land Subdivision and Site Plan Review,” which provides for comprehensive updates and amendments to Chapter 27 of the Town Code; and

WHEREAS, the Town Council and Mayor have determined to re-adopt the amendments to Chapter 26 contained in Ordinance #30-24 to address any procedural issues concerning the manner of its adoption;

NOW, THEREFORE, BE IT ORDAINED by the Town Council and Mayor of the Town of Guttenberg, County of Hudson, State of New Jersey that the Revised General Ordinances of the Town of Guttenberg are hereby amended as follows:

I.

Chapter 27 of the Town Code of the Town of Guttenberg is hereby amended as per the attached documents.

II.

Within ten (10) days from final adoption of this Ordinance, the Town Clerk shall publish notice of final adoption in the official newspaper of the Town.

III.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause, or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

IV.

All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency.

V.

The Town Clerk shall have this Ordinance incorporated in the official copies of the Revised General Ordinances. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error or to change any heading, chapter numbers, article numbers, and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Revised General Ordinances of the Town of Guttenberg, or as they may otherwise deem appropriate, even if headings, chapter numbers, article numbers, and section numbers are otherwise provided for in this Ordinance.

VI.

This Ordinance shall take effect upon passage and publication as required by law.

CHAPTER 27. LAND SUBDIVISION AND SITE PLAN REVIEW

§ 27-1 PURPOSE.

The purpose of this Chapter shall be to provide rules, regulations, and standards to guide land subdivision and site plan development in the Town in order to promote the public health, safety, convenience, and general welfare of the municipality. It shall be administered to:

- a. Protect the character and to maintain the stability of all areas within the community and to promote the orderly and beneficial development of such areas.
- b. Secure safety from fire, flood, panic and other natural and man-made disasters.
- c. Encourage the location and design of streets and roadways which will promote the free flow of traffic while discouraging the locations of such facilities and routes which will result in congestion.
- d. Promote a desirable visual environment through creative development techniques and good civic designs and arrangements.
- e. Encourage coordination of various public and private procedures and activities shaping land development with a view towards lessening the costs of such development and the more efficient use of land.

§ 27-2 ADMINISTRATION.

The provisions of this chapter shall be administered by the Planning Board. The Town has established a Planning Board that also exercises the powers of a zoning board of adjustment pursuant to N.J.S.A. 40:55D-25(c). Whenever any application brought before the Planning Board would otherwise be heard by a zoning board of adjustment, any reference to the Planning Board shall be deemed to refer to the Planning Board exercising the powers and function of a zoning board of adjustment.

§ 27-3 DEFINITIONS.

§ 27-3.1 Incorporation of Definitions from Municipal Land Use Law.

Except as provided herein, all words in this chapter requiring a specific interpretation shall be defined as set forth in N.J.S.A. 40:55D-3, 40:55D-4, 40:55D-6 and 40:55D-7.

§ 27-3.2 Additional Definitions.

As used in this chapter:

APPLICATION FOR DEVELOPMENT

Shall mean the application form and all accompanying documents required by this chapter for approval of a subdivision plat, site plan, planned development, conditional use, zoning variance or direction of the issuance of a permit pursuant to law.

APPROVING AUTHORITY

Shall mean the Planning Board.

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BUILDING

Shall mean a combination of materials to form a construction adapted to permanent, temporary or continuous occupancy and having a roof.

COMPLETE APPLICATION

Shall mean a subdivision or site plan application shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Planning Board or its designee. In the event that the Board or its designee does not certify the application to be complete within forty-five (45) days from the date of its submission, the application shall be deemed complete upon the expiration of the forty-five (45)-day period for the purposes of commencing the applicable time period unless:

- a. The application lacks information indicated on the check list of items to be submitted specified in the proceeding paragraph and providing in writing to the applicant and;
- b. The Planning Board or designee has notified the applicant, in writing, of the deficiencies in the application within forty-five (45) days of the submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the Board or its authorized committee shall grant or deny the request within forty-five (45) days from the date of its submission.

Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of his application. The Planning Board may subsequently require correction of any information found to be in error and submission of additional information not specified in this chapter 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 revisions in the accompanying documents so required by the Planning Board.

DAYS

Shall mean the number of calendar days for the purposes of this Chapter.

GOVERNING BODY

Shall mean the Mayor and Town Council.

MAJOR SUBDIVISION

Shall mean any subdivision not classified as a minor subdivision under this chapter.

MINOR SITE PLAN

Shall mean a development plan of not more than two lots which: (1) does not involve planned development, any new street or extension of any off-tract improvement which is to be prorated pursuant to N.J.S.A. 40:50D-42, as same may be amended or supplemented, (2) does not involve any variance from the Zoning Ordinance; and (3) contains the information required in order to make an informed determination as to whether the requirements set forth in Section 27-11 of this chapter for approval of a minor site plan have been met.

MINOR SUBDIVISION

Shall mean any subdivision containing not more than two lots, each fronting on a street fully improved in accordance with the standards specified in this chapter; and which (1) does not involve any new street or the extension of municipal facilities and (2) does not adversely affect the development of the lot to be divided, the remainder of the parcel or adjoining property and (3) does not conflict with any provision or portion of the Master Plan, Official Map, Zoning Ordinance, or this chapter.

NOTICE OF HEARING

Shall mean when applicant is required by law or the provisions of this chapter to give notice of the hearing of his application by the Board, the applicant, at least 10 days prior to the hearing, shall: (a) give notice of the hearing by publication in the official newspaper of the Town of Guttenberg and (b) give written notice of the hearing to all owners of real property as shown on the current tax map located within this State and within 200 feet in all directions of the subject property in accordance with N.J.S.A. 40:55D-12(b).

PERFECTED APPLICATION

Shall mean one that is submitted in a proper and complete form, including all required application forms and maps, all required fees are submitted and filed within the appropriate time schedules and proof is included that no taxes or assessments for local improvements are due or delinquent on the property for which approval is sought.

PLANNING BOARD

Shall mean the Planning Board of the Town of Guttenberg established pursuant to Town Code § 26-1.1.

SUBDIVISION

Shall mean the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions, if no new streets are created: (1) divisions of land found by the Planning Board to be for agricultural purposes where all resulting parcels are five acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the Town Construction Official to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the tax map of the Town. The term "subdivision" shall also include the term "resubdivision."

§ 27-4 EXEMPTION FROM SITE PLAN REVIEW.

- a. The Planning Board may grant an exemption from the requirements of site plan approval if the application is for a site plan development involving:
 1. Minor subdivisions or individual lot applications for detached one or two dwelling unit buildings, not involving a conditional use permit or a use variance.
 2. Any nonresidential use or activity involving:
 - (a) Repairs to the interior or exterior of a building not involving an enlargement of the building; and
 - (b) Renovations or alterations to the exterior or interior of a building or structure not involving any significant increase in usable space or existing use of the building or structure and not involving any change or permitted use. Any proposed change of a site plan or deviation from the site plan during construction shall require approval by the Planning Board.
- b. The exemption may be granted only upon a resolution by the Planning Board finding that:
 1. The use will not affect existing drainage circulation, relationship of buildings to each other, landscaping, buffering, lighting, and other considerations of site plan approval, and
 2. That the existing facilities do not require upgraded or additional site improvements.
- c. Applications for certificates of exemption shall be made on forms provided by the Planning Board and submitted to the Chairperson of the Planning Board with a nonrefundable review fee of \$150.
- d. The time period for determination as to whether the proposed development qualifies for exemption under the terms of this section shall be made at the next regular open public meeting after receipt of a completed application by the Planning Board, with notice to be given in accordance with N.J.S.A. 40:55D-12.

§ 27-5 EXCEPTION OF SPECIFIC SUBDIVISION AND SITE PLAN REQUIREMENTS.

- a. The Planning Board, when acting upon preliminary subdivision or site plan approval or minor subdivision or minor site plan approval, shall have the power to grant such exceptions from the requirements for site plan or subdivision approval as may be reasonable and within the general purpose and intent of the requirements for site plan and subdivision review and approval in this chapter, if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the property in question.
- b. Notwithstanding the above paragraph, no exemptions or waivers can be granted by the Planning Board to Zoning Ordinances without a variance.

§ 27-6 MINOR SUBDIVISION APPROVAL.

§ 27-6.1 Submission of Application.

The applicant shall submit the application, the application fee, the escrow deposit, and all accompanying documents to the Board Secretary pursuant to the requirements of Section 26-3A of the Town Code. The application shall include, in addition to any other information which may be sought by the Planning Board, the names and addresses of the owner, agent, and engineer, if any, and statements identifying and locating the property involved, together with a preliminary plat of the proposed subdivision as prescribed in Section 27-6.2 .

§ 27-6.2 Preliminary Plat.

The preliminary plat accompanying the application and each copy of the application for a minor subdivision shall be clearly drawn and legibly lettered on tracing cloth at a scale not smaller than one inch equals fifty (50) feet; it shall be accurate and certified by a licensed land surveyor and shall, in addition to complying with the requirements of N.J.S.A. 46:2B-1 to -8 show or include the following information:

- a. Name of applicant.
- b. Name of subdivision, if different from that of the applicant.
- c. Name of owner, if other than applicant.
- d. Tax map sheet delineating the name of the owner of the land being subdivided and the names of the owners of all properties within 200 feet of the extreme boundaries of the subdivision.
- e. The block and lot numbers on the current Tax Assessment Map of all the properties shown on the plat.
- f. North arrow.
- g. Date of preparation of map and revision dates.
- h. Graphic scale and reference meridian.
- i. Zoned district in which property is located.
- j. Zoning bulk requirements of district.
- k. A key map showing the entire subdivision and its relation to the surrounding area, at least within 200 feet of all property lines of the parcel being divided.
- l. The location of the lots to be created in relation to the entire tract.
- m. All existing structures and wooded areas within the subdivision and within 200 feet thereof.
- n. All streets and streams within 500 feet of the extreme boundaries of the subdivision.
- o. The location of all trees exhibiting a diameter of four or more inches, measured twelve (12) inches above ground.
- p. A delineation of all trees having a diameter of four or more inches proposed to be removed from the new lot being created, measured twelve (12) inches above the ground.
- q. Acreage of the entire parcel to be subdivided.
- r. Metes and bounds of all property lines of the entire tract and the new lot being created.
- s. The area, in square feet, of all lots to be created.
- t. Easements, streets, buildings, watercourses, railroad bridges, culverts, drainage easements and prior variances.
- u. The location of all building setback lines to be established on the proposed new lots.

§ 27-6.3 (Reserved)

§ 27-6.4 Waiver of Notice and Public Hearing.

The Planning Board will waive notice and public hearing for an application for development of a minor subdivision if the application for development conforms to the definition of minor subdivision.

§ 27-6.5 No Preliminary Approval Required.

Minor subdivision approval shall be deemed to be final approval of the subdivision by the Planning Board, provided that the Planning Board may condition such approval ensuring the provision of improvements pursuant of N.J.S.A. 40:55D-38 to 40:55D-40 and 40:55D-53.

§ 27-6.6 Time Period for Review.

Minor subdivision approval shall be granted or denied by the Planning Board within forty-five (45) days of the date of submission of a complete application to the Secretary of the Planning Board, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of a written endorsement or other evidence of approval, herein required, and shall be so accepted by the Hudson County Register for purposes of filing subdivision plats.

§ 27-6.7 Standards for Review.

If the subdivision complies with the provisions of this chapter, the Zoning Ordinance, the Municipal Land Use Law and all other applicable laws and ordinances or resolutions, the Planning Board shall grant approval of the subdivision.

§ 27-6.8 Conditional Approval.

Whenever review or approval of the application by the Hudson County Planning Board is required by N.J.S.A. 40:27-6.3, the approval granted hereby shall be conditioned upon timely receipt of a favorable report on the application by the Hudson County Planning Board or approval by the Hudson County Planning Board by its failure to report thereon within the required time period.

§ 27-6.9 Perfection of Approved Application.

Approval of a minor subdivision shall expire 190 days from the date of approval by the Planning Board, unless within such period a plat in conformity with such approval and N.J.S.A. 46:26B-1 to -8, or a deed clearly describing the approved minor subdivision is filed by the developer with the Hudson County Register, the Town Engineer, and the Town Tax Assessor. The plat or deed must be signed by the Chair and Secretary of the Planning Board.

§ 27-6.10 Conformity of Plat with Map Filing Act.

In reviewing the application for development for a proposed minor subdivision, the Planning Board may accept a plat not in conformity with N.J.S.A. 46:26B-1 to -8 provided that if the developer then chooses to file the minor subdivision as provided by Section 27-6.8 by plat rather than by deed, the plat shall be made to conform with the provisions of N.J.S.A. 46:26B-1 to -8.

§ 27-6.11 Effect of Approval.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval; provided that the approved minor subdivision shall have been duly recorded by plat or deed with the Hudson County Register.

§ 27-6.12 Application Determined as Major Subdivision.

If the Planning Board fails to unanimously determine that the application and plat submitted therewith qualifies as a minor subdivision under the terms of this chapter, the application and plat shall be returned to the developer with instructions that he/she perfect a major subdivision application in accordance with Section 27-7 of this chapter.

§ 27-7 PRELIMINARY APPROVAL OF MAJOR SUBDIVISION.

§ 27-7.1 Submission of Application

The applicant shall submit the application, the application fee, the escrow deposit, and all accompanying documents to the Board Secretary pursuant to the requirements of Section 26-3A of the Town Code.

§ 27-7.2 Preliminary Plat Details.

The preliminary plat accompanying an application for a major subdivision shall be designed in compliance with the design standards set forth in this Chapter 27 and be clearly drawn and legibly lettered in ink on tracing cloth at a scale not smaller than one inch equals fifty (50) feet. It shall be accurate as to boundaries and existing features, but may be approximate as to proposed features. The accuracy of the boundaries and existing features shall be certified by a licensed land surveyor. The subdivision plat shall be in accordance with N.J.S.A. 46:26B-1 to -8. All design features shall be prepared by a licensed professional engineer.

The preliminary plat shall contain the following information:

- a. Title of Development. North arrow, graphic scale and reference meridian; lot and block number; name and address of record owner; name and address of applicant; name and address, license number and seal of the person preparing the subdivision; if the owner of the premises is other than an individual, the name and address of the partners or officers of the entity making the submission; certification of owner, if other than applicant, authorizing submission.
- b. Date. All revisions shall be noted and dated.
- c. Key map showing the location of the tract with reference to the surrounding properties within 200 feet of all the boundaries of the lands being subdivided and existing street intersections.
- d. All distances shall be in feet and decimals of a foot and all bearings shall be given to the nearest ten (10) seconds.
- e. The names, as shown on current tax records, of all owners of property within 200 feet of the subdivision, together with the lot and block numbers of the property.
- f. The zone district in which the parcel is located, together with zoned boundaries within 200 feet of the extreme limits of the property in question; zoning limiting schedule requirements applicable to parcel being subdivided.

- g. Survey data showing boundaries of the property, building or setback lines and lines of existing and proposed streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way. All existing rights of way and/or easements on or within 200 feet of the site shall be shown.
- h. Reference to any existing or proposed covenants, deed restrictions or exceptions covering all or any part of the parcel. A copy of such covenants, deed restrictions or exceptions shall be submitted with the application.
- i. The distances, measured along the right-of-way lines of existing streets abutting the property, to the nearest intersection with other public streets.
- j. Location of all existing and proposed buildings and all other structures, including fences, culverts and bridges, and driveways [four (4) inches crushed stone or gravel in one and one-half (1 ½) inches S.M.], with spot elevations of such buildings and structures. Structures to be removed shall be indicated by dash lines; structures to remain shall be indicated by solid lines. Also set forth the present and proposed uses of all such buildings. Any or all lots where group houses and dwelling units or local stores or shops are proposed to be built, indicate for each lot or proposed building unit the approximate location and dimensions of the proposed building and any or all automobile parking areas to be furnished in connection therewith.
- k. Location of all existing and proposed storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and directions of flow, locations of inlets, manholes or other appurtenances and appropriate invert and other elevations. The utility lines and connections shall include storm drains, water, gas and electrical facilities. If any existing utility lines are underground, the estimated location of the utility lines shall be shown. Included shall be plans and profiles of storm drains, sanitary sewers, water mains and other structures.
- l. Existing and proposed contours with a contour interval of one foot for slopes of less than three percent (3%); an interval of two feet for slopes of more than three percent (3%) but less than fifteen percent (15%); an interval of five feet for slopes of fifteen percent (15%) or more. Existing contours are to be indicated by dash lines; and proposed contours are to be indicated by solid lines. All contour elevations shall be referenced to the United States Coast and Geodetic Survey level bench marks, and such elevations shall be shown in feet and hundredths of a foot.
- m. Location of existing rock outcrops, high points, watercourses, depressions, ponds, marshes, wooded areas and other significant existing features, including previous flood elevations of watercourses, ponds and marsh areas as determined by survey. All trees exhibiting a diameter of four inches or more shall be specifically located, and all trees proposed to be removed shall be specified.
- n. Name, location and dimensions of any existing or proposed streets on or within 200 feet of the site. All proposed streets, with profiles, indicating the grading; and cross sections showing width of roadway, location and width of sidewalks and location and size of utility lines conforming to the Town's standards and specifications. Proposed final grades of all streets shall be shown to a scale of one inch equals fifty (50) feet horizontal on sheets twenty-two (22) inches by thirty-six (36) inches, and drawings shall include both plans and profiles and shall show elevations of all monuments referred to the United States Coast and Geodetic Survey level bench marks, and such elevations shall be shown in feet and hundredths of a foot.
- o. The location of all existing and proposed water lines, valves and hydrants and all sewer lines.

- p. Existing and proposed stormwater drainage systems. All plans shall be accompanied by a plan sketch showing all existing drainage within 500 feet of any boundary and all areas, such as paved areas, grassed areas, wooded areas and any other surface area contributing to the calculations, and showing methods used in the drainage calculations.
- q. Acreage, to the nearest tenth of an acre, of the tract to be subdivided and the area, in square feet, of all lots.
- r. Any lands subject to the Farmlands Assessment Act of 1964 shall be duly noted as to the valuation, assessment and taxation.
- s. Lighting plan and details.
- t. Site identification signs, traffic control signs and directional signs.
- u. Vehicular and pedestrian circulation patterns.
- v. Parking plans showing spaces, size and type, aisle width, curb cuts, drives, driveways and dimensions of spaces.
- w. Soil erosion and sediment control plan.
- x. A chart showing the designation of all lines, symbols and characters as demonstrated on the plan.
- y. Appropriate blocks for the required approving authority's signature (Planning Board Chairperson, Planning Board Secretary, and Town Engineer).
- z. Such other information or data as may be required by the approving authority or the County Planning Board for determination that details of the subdivision are in accordance with the standards of this ordinance, the Zoning Ordinance and all other applicable laws, ordinances or resolutions.
- aa. Certification blocks required by N.J.S.A. 46:26B-1 to -8.

§ 27-7.3 Review by Hudson County Planning Board.

The Secretary of the Planning Board, upon receipt of the application for major subdivision approval, shall cause a copy of the preliminary plat to be submitted to the Hudson County Planning Board for review.

§ 27-7.4 Additional Requirements.

The application shall also include the following information:

- a. Proof that all taxes, assessments, water and sewer charges, on the property, if any, are current.
- b. Schedule of the required and provided zone district's requirements for the property including lot area, width, depth, yard setbacks, building coverage, parking, etc.
- c. Affidavit of ownership of the property.
- d. Copy and/or delineation on the plat of any existing or proposed deed restrictions or covenants.
- e. Copies of all existing easements and descriptions of any proposed easements of land reserved or dedicated to public use.
- f. Description of development stages or staging plans.
- g. List of required or regulatory approvals or permits.
- h. List of variances required or requested.
- i. List of requested design waivers and exceptions.
- j. Payment of any and all application fees.
- k. Percolation test.

- l. Drainage calculations.
- m. Corporate or partnership applicants must comply with the requirements set forth in N.J.S.A. 40:55D-48.1 and -48.2.

§ 27-7.5 Certification of Complete Application for Hearing.

If the Secretary of the Planning Board, or such other person designated by the Planning Board, finds the application for major subdivision approval to be in complete and proper form under the provisions of this section, he/she shall certify the application for public hearing to be held at the next regular meeting of the Planning Board, provided that the date of such meeting shall be after the receipt of the review report of the Hudson County Planning Board or at least twenty (20) days after the date that the copy of the preliminary plat is transmitted to the Hudson County Planning Board for review. Notice of such certification for hearing shall be given to the Building Department.

§ 27-7.6 Notice of Hearing.

- a. At least ten (10) days prior to the date set for the hearing, the applicant shall give public notice of the hearing by publication in the official newspaper of the Town of Guttenberg, and the applicant shall give written notice of the hearing to all owners of real property as shown on the current tax map, located within the State and within 200 feet in all directions of the subject property all in accordance with N.J.S.A. 40:55D-12(b).
- b. At or prior to the hearing, the applicant shall file with the Secretary of the Planning Board an affidavit of proof of service of the notices required by this section.

§ 27-7.7 Copies of Preliminary Plat.

At least five days before the hearing, copies of the preliminary plat, as supplied by the applicant, shall be forwarded by the Secretary of the Planning Board to each of the following officials:

- a. Town Engineer.
- b. Town Tax Assessor.
- c. Construction Official.

§ 27-7.8 Approval or Disapproval of Preliminary Plat.

- a. The Planning Board shall grant or deny preliminary approval for subdivisions of ten (10) or fewer lots within forty-five (45) days following the date of certification for a public hearing pursuant to Section 27-7.5, or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval to the subdivision.
- b. The Planning Board shall grant or deny preliminary approval for subdivisions of more than ten (10) lots within ninety-five (95) days following the date of certification for a public hearing pursuant to Section 27-7.5 or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval to the subdivision.
- c. If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing, an amended application shall be submitted and proceeded upon, as in the case of an original application.

- d. If the subdivision complies with the provisions of this chapter, the Zoning Ordinances, and the provisions of the Municipal Land Use Law, and all other applicable laws and ordinances, the Planning Board shall grant preliminary approval of the subdivision.

§ 27-7.9 Reproductions of Approved Plat.

Before the Secretary of the Planning Board shall return any approved preliminary or final plat to the applicant, the Secretary shall have sufficient reproductions made (recovering the cost therefore from the applicant) to furnish one copy to each of the following:

- a. Town Engineer.
- b. Town Tax Assessor.
- c. Chairman of the Planning Board.
- d. Construction Official.

§ 27-7.10 Effect of Preliminary Approval.

- a. Preliminary approval shall confer upon the applicant the following rights for a three (3)-year period from the date of approval:
 - 1. That the general terms and conditions under which the preliminary approval was granted will not be changed; and
 - 2. That the applicant may submit the plat, in whole or in parts, for final approval on or before the three (3)-year expiration date.
- b. On application by the applicant for an extension of the preliminary approval, the Planning Board may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years. However, if during any extension period the design standards have been revised by ordinance, such revised standards may govern.

§ 27-8 FINAL APPROVAL OF MAJOR SUBDIVISION; IMPROVEMENTS.

§ 27-8.1 Submission of Application.

Submission and Fees. Application for approval of a final plat or part thereof shall be submitted by the applicant to the Secretary of the Planning Board, together with the required application fee, and escrow deposit as set forth in Chapter 26, within three (3) years following the date of approval of the preliminary plat or within any extension of such three (3)-year period.

§ 27-8.2 Final Plat Details.

- a. The final plat shall not differ substantially from the preliminary plat as approved. It shall be clearly drawn and legibly lettered in ink on tracing cloth at a scale not smaller than one inch equals fifty (50) feet; it shall be accurate and certified by a licensed land surveyor or licensed engineer; it shall be designed in compliance with the design standards set forth in Section 27-9 ; the conditions of preliminary approval; and it shall comply with the requirements of N.J.S.A. 46:26B-1 to -8.
- b. The final plat shall show or include or be accompanied by, in addition to such other information as the Planning Board may require, the following information:

1. Date, name and location of the subdivision, name of owner, graphic scale and reference meridian.
2. Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, lands to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflection angles, and radii, arcs and central angles of all curves.
3. The names, exact location and widths of all existing and recorded streets intersecting or paralleling the plot boundary within a distance of 200 feet.
4. The purpose of any easement or land reserved or dedicated to public use shall be designated, and the property use of sites other than residential shall be noted.
5. Lot, block and street numbers as approved by the Town Engineer, including lot and block numbers of adjacent properties.
6. Main building setback lines on all lots and other sites.
7. Location and description of all monuments, which shall comply in all respects with N.J.S.A. 46:26B-1 to -8.
8. Names of owners of adjacent or adjoining unsubdivided lands.
9. A certification by an engineer or land surveyor as to the accuracy of the details of the plat.
10. A certification that the applicant is the owner of the land to be subdivided or the agent of the owner, or that the owner has given consent under an option agreement.
11. When approval of a plat is required by any officer or department or body of the Town, County or State, approval shall be certified on the plat.
12. Plans and profiles of street, storm and sanitary sewers and water mains.
13. Certificate from the Tax Collector that all taxes and assessments are paid to date.
14. Written proof, satisfactory to the Planning Board, to the effect that all liens or encumbrances on the lands set aside for highway or street purposes do not exist or have been released and are properly recorded.
15. A written statement that the specifications for the construction of any proposed streets, sidewalks, curbs, storm drains and appurtenances and all other contemplated improvements meet with the requirements of all ordinances of the Town relating to the acceptance of streets and with the standard specifications of the Town on file with the Town Engineer, if any.
16. A written agreement to pay to the Town all engineering and inspection fees incurred by it in connection with the proposed inspection of the construction of said improvements.
17. A written estimate of the total cost of construction, installation and completion of all the improvements and monuments.
18. Such additional requirements as the Board may deem reasonably necessary to accomplish the intent and purpose of this chapter.

§ 27-8.3 Required Improvements or Performance Guaranty.

- a. Prior to the granting of final approval, the Town Engineer must have certified in writing to the Planning Board that he has received from the applicant a map showing all improvements and installations, both proposed and existing, in exact location and elevation, identifying those portions already installed and those to be installed, and that

the applicant has made all installations in accordance with the requirements of this chapter or has furnished one or more performance guaranties in favor of the Town in sufficient amount for the ultimate installation of all such improvements. Such performance guaranties shall be filed with the Secretary of the Planning Board in amounts sufficient to cover the cost of completion of all the improvements, as estimated by the Town Engineer, and ensuring the installation of such uncompleted improvements on or before a date approved by the Planning Board. The period of guaranty shall not exceed three years unless extended by resolution of the Town Council. As a condition or as part of any such extension, the amount of any performance guarantee shall be increased or reduced, as the case may be, to an amount not to exceed 120% of the cost of the installation as determined as of the time of the passage of the resolution of the Town Council.

- b. All improvements or installations shall be subject to inspection and approval by the Town Engineer, who shall be notified by the applicant within twenty-four (24) hours prior to the commencement of construction or installation. No underground installation shall be covered until inspected and approved by the Town Engineer.
- c. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the developer may notify the Town Clerk in writing, by certified mail, of the substantial completion of improvements and shall send a copy thereof to the Town Engineer. Then the Town Engineer shall inspect all of the improvements of which notice has been given and shall file a detailed report, in writing, with the Mayor and Town Council indicating either approval, partial approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.
- d. The Mayor and Town Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Town Engineer and shall notify the global obligor in writing, by certified mail, of the contents of the report and the action of the Mayor and Town Council with relation thereto, not later than sixty-five (65) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that thirty percent (30%) of the amount of the performance guarantee posted may be retained to ensure completion of all improvements. Failure of the Mayor and Town Council to send or provide such notification to the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements.
- e. If any portion of the required improvements are rejected, the Mayor and Town Council may require the obligor to complete such improvements and, upon completion, the same procedure of notification, as set forth in paragraph c hereof shall be followed. Nothing herein, however, shall be construed to limit the right of the obligor to contest by legal proceedings any determination of the Mayor and Town Council or the Town Engineer.
- f. The obligor shall reimburse the Town for all reasonable inspection fees paid to the Town Engineer for the foregoing inspection of improvements; provided that the Town may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Town Engineer for such inspection.
- g. In the event that final approval is by stages or sections of development pursuant to N.J.S.A. 40:55D-38 the provisions of this section shall be applied by stage or section.

- h. If the required improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the Town for the reasonable cost of the improvements not completed or corrected, and the Town may either prior to or after the receipt of the proceeds thereof complete/correct such improvements.
- i. The Town may require as a condition of final approval that the applicant post a maintenance guarantee with the Mayor and Town Council for a period not to exceed two years after final acceptance of the improvement, in the amount not to exceed 15% of the cost of the improvement. However, in the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the Town for such utilities or improvements.

§ 27-8.4 Requirements for Off-Tract Improvements.

- a. Any subdivision requiring off-tract improvements, as defined herein, shall comply with the provisions of this subsection.
- b. Off-Tract Improvement shall mean one or more required improvements which are necessary for the successful completion of a development, in the interest of furthering the public health, safety and general welfare, and where the improvements are located off tract.
- c. An off-tract improvement shall be required where either the existing facilities serving the area are already operating at a deficient level of service or the inclusion of a new development will make such present level of service deficient according to the engineering standards utilized in determining such levels of service.
- d. The developer shall be required to pay its proportionate share of any such off-tract improvements, which payment shall reasonably relate to the benefit or use the total area so served.
- e. Under the conditions of this chapter, off-tract improvements shall be limited to:
 - 1. New or improved water distribution, sanitary sewer disposal and distribution and stormwater and drainage distribution facilities and all necessary appurtenances thereto.
 - 2. Utility easements in and to new or improved streets and right-of-way widths.
 - 3. Traffic regulation and control devices.
 - 4. Intersection improvements.
 - 5. Utility relocation, where not provided elsewhere.
 - 6. Other traffic circulation and safety factors which are directly related to the property or properties in question.
- f. The provisions herein contained allowing the approving authority to require the construction of off-site improvements by the applicant shall in no way obligate the municipality to construct any such improvement or to otherwise make them available to the applicant.

§ 27-8.5 Approval or Disapproval of Final Plat.

- a. Action by Planning Board. The Planning Board shall act to approve or disapprove the final plat within forty-five (45) days following the submission of a complete application

for final approval to the Secretary of the Planning Board or within such further time as may be agreed to by the applicant. Failure of the Planning Board to act within the above specified time or within the mutually agreed upon time extension shall be deemed to be final approval; and a certificate of the Secretary of the Planning Board as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, and shall be so accepted by the Hudson County Register for purposes of filing subdivision plats.

- b. Disapprovals. If the Planning Board disapproves of a final plat, the reasons for disapproval shall be stated in writing, a copy of which shall be attached to the application and sent to the applicant.
- c. Approvals. If the Planning Board shall act to approve the final plat, the Chairperson and Secretary of the Planning Board shall affix their signatures to the plat, with a certification that it has received final approval, provided (a) that payment has been made for all fees and escrow funds in connection therewith, including planning consultant's report, Engineer's report, Engineer's inspection of required construction and improvements and all reproductions required by subsection 27-8.1c; and (b) that the developer has posted the required guarantees with the Town.

§ 27-8.6 Certification of Final Subdivision Approval.

- a. The Planning Board is hereby designated and authorized to make and issue certificates as to the final approval of land subdivision.
- b. Within seven (7) business days after the receipt of written request therefor, the Planning Board shall issue a certificate of final subdivision approval to any interested person upon the payment of a fee of \$25 for each such certificate issued.
- c. Each such certificate shall be designated a "Certificate as to Approval of Subdivision of Land" and shall certify the following:
 - 1. That there exists in the Town a duly established Planning Board which meets regularly on a monthly basis and that this chapter of the Code of the Town controls the subdivision of land and was adopted under the authority of the New Jersey Revised Statutes.
 - 2. That the subdivision or resubdivision, as it related to the land shown on the subdivision application, has been approved by the Planning Board and the date of such approval.
 - 3. That such subdivision or resubdivision, if the same has not been approved, is exempted from the requirements of approval by virtue of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., or by virtue of any provision of this chapter.

§ 27-8.7 Effect of Final Approval.

- a. Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the Hudson County Register. The Planning Board may for good cause shown extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat.
- b. No subdivision plat shall be accepted for filing by the Hudson County Register until it has been approved by the Planning Board as indicated on the instrument by the signatures of the Chairman and Secretary of the Planning Board or a certificate has been

issued pursuant to N.J.S.A. 40:55D-47, 40:55D-50, 40:55D-56, 40:55D-61, 40:55D-67 or 40:55D-76. The signatures of the Chairman and Secretary of the Planning Board shall not be affixed until the developer has posted the guarantees required as a condition of approval. If the Hudson County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and upon request of the Town, the plat shall be expunged from the official records.

- c. It shall be the duty of the Hudson County Register to notify the Planning Board and the Town Tax Assessor in writing within seven days of the filing of any plat, identifying such instrument by its title, date of filing, and official number.

§ 27-9 DESIGN STANDARDS.

In acting upon all subdivision applications (both major and minor), the Planning Board shall require compliance with the design standards contained in this section, and the applicant shall observe such standards and principles of land subdivision in the design of each subdivision or portion thereof.

§ 27-9.1 General Standards.

- a. The layout or arrangement of the subdivision plat must be consistent with the Zoning Ordinance and Master Plan and Zoning Map.
- b. The tracts shall be adequately drained and the streets shall be of sufficient width, suitable grade and suitably located to accommodate the prospective traffic, to provide access for fire fighting and emergency equipment to buildings and to be coordinated so as to compose a convenient system consistent with the Official Map and the circulation element of the Master Plan and so oriented as to permit consistency with the reasonable utilization of land, the buildings constructed thereon to maximize solar gain. However, no street of a width greater than fifty (50) feet within the right-of-way lines shall be required unless the street constitutes an extension of an existing street of the greater width, or has already been shown in greater width on either the Official Map or Master Plan.
- c. All lots shown on the plat shall provide for adequate water supply, drainage, shade trees, sewage facilities and other utilities necessary for the provision of essential services to residents and occupants.
- d. The subdivision plan shall conform to the applicable provisions of the Zoning Ordinance.
- e. The subdivision plan must be in conformity with the Municipal Recycling Ordinance required by N.J.S.A. 13:1E-99.16.
- f. All lots shown on the plat shall be adaptable for the intended purpose without danger to health or peril from flood, fire, erosion or other menace.
- g. If portions of the Master Plan contain proposals for drainage rights-of-way, schools, parks or playgrounds within the proposed subdivision or in its vicinity, or if standards for the allocation of portions of subdivisions for drainage rights-of-way, school sites, park and playground purposes have been adopted, then before approving subdivisions the Planning Board may further require that such drainage rights-of-way, school sites, parks or playgrounds be shown in locations and sizes suitable for their intended uses. The Planning Board is hereby permitted to reserve the location and extent of school sites, public parks and playgrounds shown on the Master Plan or any part thereof for a period of one year after the approval of the final plat or within such further time as

agreed to by the applicant. Unless during such one-year period or extension thereof the Town shall have entered into a contract to purchase or instituted condemnation proceedings according to law for the school site, park or playground, the applicant shall not be bound by the proposals and such areas shown on the Master Plan. This provision shall not apply to the streets and roads or drainage rights-of-way required for final approval of any plat and deemed essential to the public welfare.

§ 27-9.2 Street Standards.

- a. The arrangement of streets not shown on the Master Plan or Zoning Map shall be such as to provide for the logical extension of existing streets and to provide for street access for remaining land areas.
- b. Minor streets in residential areas shall be so designed as to discourage through traffic.
- c. Subdivisions abutting arterial streets or regional highways shall provide a marginal service road or reverse frontage with a buffer strip for planting or some other means of separation for local traffic as the Planning Board may deem appropriate.
- d. The right-of-way width shall be measured from lot line to lot line and shall not be less than fifty (50) feet in any case; when shown at a greater width on the Master Plan or Official Map, such greater width shall be required.
- e. No subdivision showing reserve strips controlling access to streets shall be approved unless the control and disposal of land comprising such strips has been placed in by the Mayor and Town Council under conditions approved by the Planning Board.
- f. Subdivisions that adjoin or include existing streets that do not conform to widths shown on the Master Plan or Official Map or the street width requirements of this chapter shall provide for the dedication of additional width along either one or both sides of the street of substandard width. If the subdivision is along one side only of the street, one-half of the required extra width shall be dedicated.
- g. Grades of arterial and collector streets shall not exceed 6%. Grades of other streets shall not exceed 10%. However, the Planning Board and the governing body shall have the right to require grades of less than 10% where special conditions exist, provided that such special conditions are set forth in writing upon the minutes of the Planning Board and governing body. No street shall have a minimum grade of less than 0.5%.
- h. Street intersections shall be as nearly at right angles as circumstances will allow and in no case shall be less than 60°. The block corners at intersections shall be rounded at the curblineline or property line with a curve having a radius of not less than fifteen (15) feet.
- i. Street jogs with center line offsets of less than 125 feet shall be avoided.
- j. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
- k. When connecting street lines deflect from each other at any one point by more than ten degrees (10°) and not more than forty-five degrees (45°), they shall be connected by a curve with a center line radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- l. All changes in grade shall be connected by vertical curves of sufficient length and curvature to provide a smooth transition and proper sight distance.
- m. Permanent dead-end streets (cul-de-sac) shall not be longer than 600 feet and shall provide a circular turnaround at the end with a right-of-way radius of not less than 50 feet and tangent whenever possible to the right side of the street. Temporary dead-end

streets shall provide a similar turnaround and provisions for future extension of the street and reversion of the excess right-of-way to the adjoining properties.

- n. No street shall have a name which duplicates the name of an existing street or is so similar to the name of an existing street as to be easily confused with it. The continuation of an existing street shall have the same name.

§ 27-9.3 Block Standards.

- a. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the Zoning Ordinance and to provide for convenient access, circulation control and safety of street traffic.
- b. In blocks over 1,000 feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Board. Such walkway shall be ten (10) feet wide and shall be straight from street to street.
- c. For commercial, group housing or industrial use, the block size shall be sufficient in the judgment of the Planning Board to meet all land and yard requirements for such use.

§ 27-9.4 Lot Standards.

- a. All lots created by subdivision shall conform strictly to the requirements of the Zoning Ordinance as to area and dimensions and as to adequacy of space and grade to provide off-street parking requirements specified in that ordinance.
- b. Insofar as practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- c. Each lot must front upon an improved street at least fifty (50) feet in width, except lots fronting on streets described in Section 27-9.2(f).
- d. Where extra width has been dedicated for the widening of existing streets, lots shall begin at such extra width line and all setbacks shall be measured from such line.
- e. Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, drainage, or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots.

§ 27-9.5 Maintenance of Watercourses, Environmental Protection.

- a. In large-scale developments, easements along rear property lines or elsewhere for utility installation may be required by the Planning Board. Such easements shall be of the width and location determined by the Planning Board after consultation with the public utility companies or municipal departments concerned.
- b. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse or channel, and such further width or construction, or both, as the Planning Board may deem adequate for the purpose.
- c. Natural features, such as trees, brooks and ponds, shall be preserved wherever possible in designing any subdivision pertaining to such features. No trees four inches or larger in diameter measured twelve (12) inches above the ground shall be removed from the subdivided plot unless the same shall interfere with the construction of buildings or utilities, except as is otherwise provided or may otherwise be provided by ordinance.

§ 27-9.6 Water Mains, Culverts, and Storm Sewers.

All installations of water mains, culverts and storm sewers shall be connected with an approved system and shall be adequate to serve all present and probable future development.

§ 27-9.7 Sanitary Installation.

Sanitary sewers shall be installed in accordance with the ordinances of the Town.

§ 27-9.8 Installation of Underground Utilities.

- a. For all major subdivisions, the applicant shall arrange for the services of its lands by the installation of underground utilities and service connections in accordance with the provisions of the applicable standard terms and conditions incorporated as a part of the tariffs of the serving utility, as the same are then on file with the State of New Jersey Board of Public Utilities, and shall submit to the approving authority, prior to the granting of final approval, a written instrument from each such serving utility which shall evidence full compliance with the provisions of this subsection.
- b. Whenever a utility is not installed in the public right-of-way, an appropriate utility easement not less than 20 feet in width shall be provided.

§ 27-9.9 Soil Removal and Redistribution.

- a. Soil removal and relocation shall be in accordance with Chapter 251 of Laws of 1975, the New Jersey Soil Erosion and Sediment Control Act.
- b. Minimally, topsoil removed during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting so as to remain in place.

§ 27-9.10 Planting of Shade Trees.

Shade trees exhibiting a diameter of no less than two and one-half (2-1/2) inches measured six (6) inches above the ground shall be planted on center at sixty (60)-foot intervals as determined by the Planning Board and shall be located on the street line in a manner not to interfere with utilities or sidewalks. The shade trees shall be of the following types: Norway maple, sugar maple or plane tree.

§ 27-9.11 Location of Sidewalks.

Sidewalks shall be located within the subdivision on all arterial and collector streets and on such other streets as may serve as corridors for pedestrian traffic to schools, shopping and public facilities.

§ 27-9.12 Location of Fire Alarms.

Fire alarms and apparatus shall be constructed at such locations as may be accessible to and serve the public safety, general welfare and convenience.

§ 27-9.13 Installation of Street Lights.

Street lights shall be installed on center at such intervals providing a luminescence sufficient to assure the safe passage of motor vehicles and pedestrians.

§ 27-9.14 Monuments.

Monuments shall be established and located as required by the N.J.S.A. 46:26B-1 to -8, as the same may be amended and supplemented.

§ 27-9.15 Connection of Water Mains.

Water mains and their connections to the curblines and fire hydrants, culverts and storm sewers shall be properly connected with an approved system and shall be adequate to handle all present and probable future development.

§ 27-9.16 Air Safety Act.

The plan must conform with the standards promulgated by the Commissioner of Transportation, pursuant to the Air Safety Hazardous Zoning Act of 1983, N.J.S.A. 6:1-80 et seq., for any airport hazard areas delineated under that act.

§ 27-9.17 Open Space.

For any areas reserved as open space under the Zoning Ordinance or a planned unit development, the size, shape and location of the area must be suitable and reserved for such purposes.

§ 27-10 VIOLATIONS AND PENALTIES.

§ 27-10.1 Premature Sale.

If, before final approval has been obtained, any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by this chapter, the Planning Board is required to act, such person shall be subject to a fine not to exceed \$1,000. Each parcel, plot or lot so disposed of shall be deemed a separate violation.

§ 27-10.2 Civil action.

In addition to the foregoing the Town may institute an action for injunctive relief and to set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with law.

§ 27-10.3 Liens upon Property.

In any such action, the transferee, purchaser or grantees shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his assigns or successor, to secure the return of any deposit made or purchase price paid, and also a reasonable search fee survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of said land, or within six years if unrecorded.

§ 27-11 MINOR SITE PLANS.

§ 27-11.1 Application Procedure.

- a. The applicant shall submit the application, the application fee, the escrow deposit, and all accompanying documents to the Board Secretary pursuant to the requirements of Section 26-3A of the Town Code.
The applicant shall also present evidence that no taxes, assessments, or other municipal charges are outstanding against the property.
- b. The application shall be declared complete or incomplete by the Planning Board no later than forty-five (45) days after its submission.
- c. Once the application has been deemed complete, the Planning Board shall grant or deny minor site plan approval within forty-five (45) days of the date of submission of a completed application, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period described shall constitute a minor site plan approval.

§ 27-11.2 Waiver of Notice and Public Hearing.

- a. If the Planning Board finds that the completed application for development conforms to the definition of a minor site plan under this chapter, the Planning Board may waive the requirements of Notice and Public Hearing as set forth in N.J.S.A. 40:55D-12.
- b. A subcommittee of the Planning Board is hereby established to review all waiver requests upon the forwarding of a letter and the appropriate copies of the plan to the Planning Board subcommittee for their review. The subcommittee is thereby empowered to work with the Building Official, and/or his/her successors, and/or agents, to review these applications within three days of receipt thereof. If the finding is that the completed application for development conforms to the definition of a minor site plan under this chapter, the subcommittee may grant a waiver to the applicant and report same back to the Planning Board at the next regular scheduled meeting.
- c. There shall be no application fee attendant to such a waiver request under the Community Development Block Grant Program.
- d. Said persons are empowered hereby on a vote of the majority of the subcommittee to grant said waivers and execute appropriate application forms submitted by the Hudson County Planning Board with regard to the Community Development Block Grant Program on behalf of the Planning Board of the Town.

§ 27-11.3 Standards for Review.

If the proposed site plan complies with Section 27-12.3, as well as the requirements and standards set forth in this chapter, the Zoning Ordinance, the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and all the applicable laws, ordinances, regulations, or resolutions, the Planning Board shall grant approval of the development plan.

§ 27-11.4 Conditional Approval.

- a. Whenever review or approval of the application by the Hudson County Planning Board is required, approval by the Planning Board shall be conditioned upon timely receipt of a favorable report on the application by the County Planning Board or approval by the County Planning Board by its failure to report thereon within the required time period.
- b. The Planning Board may condition approval of a minor site plan on such terms which ensure the provision of the improvements pursuant to Section 27-9 and Sections 27-12.9 and 27-12.10 and the payment of all taxes, assessments and other charges due the municipality.

§ 27-11.5 Effect of Approval of Minor Site Plan.

The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor site plan approval was granted, shall not be changed for a period of two (2) years after the date of minor site plan approval.

§ 27-11.6 (Reserved)

§ 27-12 PRELIMINARY APPROVAL OF MAJOR SITE PLAN.

§ 27-12.1 Submission of Application.

- a. The applicant shall submit the application, the application fee, the escrow deposit, and all accompanying documents to the Board Secretary pursuant to the requirements of Section 26-3A of the Town Code.
- b. The site development plan shall be in a form and contain the elements listed in subsection 27-12.3 of this section.
- c. The application and plan shall be accompanied by all requisite fees as set forth in Chapter 26.
- d. The application and plan shall be submitted as set forth herein at least twenty-one (21) days prior to the date of the Planning Board meeting at which approval is requested.
- e. The officials to whom a copy of the site development plan has been submitted shall forward to the Planning Board not later than eight (8) days prior to the second regular meeting of the approving authority succeeding the completion of the application, their recommendations and comments, if any, in writing, concerning the site developments plan. The Planning Board shall consider the recommendations thus advanced but shall proceed in the absence of such recommendations.

§ 27-12.2 Determination of Completion.

- a. The Planning Board shall have forty-five (45) days from the submission of the items required in subsection 27-12.1 of this section to deem the application complete for purposes of review.
- b. An application shall be considered complete when the application forms have been duly submitted, the fees and deposits paid and the Board Engineer shall have certified that the site development plan has been drawn in accordance with subsection 27-12.3 of this section and is otherwise in a form required for the formal action of the Planning Board.

§ 27-12.3 Site Development Plan Details.

Site development plans shall be prepared by a licensed professional engineer, surveyor, and where applicable, an architect and shall include the elements listed below which are appropriate to the proposed development or use. The map shall be at least sixteen (16) inches by twenty-six (26) inches, but not more than twenty-four (24) inches by thirty-six (36) inches and a scale of not less than one inch equals fifty (50) feet..

- a. Date of site plan. All revisions shall be noted and dated.
- b. Layout of proposed building of structures including existing and proposed elevation plan. The elevation of buildings and structures shall be indicated on the site plan in feet and number of stories. The improved lot coverage as defined in the zoning ordinance and its computations shall also be provided.
- c. Key map showing the location of the tract with reference to surrounding areas and existing street intersections.
- d. Title of development, North arrow, scale, block and lot number, name and address of record owner, name and address, license number and seal of person preparing the site plan. If the owner is a corporation, the name and address of the president and secretary shall be submitted with the application.
- e. Location, dimensions and details of signs.
- f. Lot line dimensions shall be in feet and decimals of a foot of all bearings shall be given to the nearest ten seconds.
- g. The names of all owners of record and all adjacent property, and the block and parcel number of the property, within 200 feet of the nearest property line. Evidence of notification of all adjoining property owners as provided by law shall be submitted at the public hearing. Land use of all parcels abutting the subject property shall be noted on the site plan.
- h. Zone boundaries shall be shown on the site plan as they affect the parcel; Adjacent zones districts within 200 feet shall also be indicated. Such features may be shown on a separate map or key on the detail map itself.
- i. Boundaries of the property, required building or setback lines and lines of existing streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights of way.
- j. A map or copy of any covenants, deed restrictions or exceptions that are in effect or are intended to cover all or any of the tracts.
- k. All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersections with any other public street.

- l. Location of existing buildings on the site which shall remain and all other structures such as walls, fences, culverts, bridges, roadways, etc., with spot elevations of such structures. Structures to be removed shall be indicated by dashed lines.
- m. Location and elevations of all storm drainage structures and utility lines; whether publicly or privately owned, with pipe sizes grade and direction of flow, and if any existing utility lines are underground, the estimated location of said already underground utility lines shall be shown.
- n. Existing contours with intervals of two (2) feet where slopes are less than ten percent (10)% and five (5) feet where slopes are 100% or greater referred to United States coast and Geodetic datum or other reference system as may be required by the Town Engineer and to be indicated by a dashed line. Where any changes in contours are proposed, finished grades should be shown as solid lines or as may be required as a separate proposed grade plan.
- o. Location of existing rock outcrops, high points, watercourses, depressions, ponds, marches, wooded areas and other significant existing features, including previous flood elevations of watercourses, and, where available, ponds and march areas, as may be determined by survey.
- p. A survey prepared, signed, and sealed by a licensed surveyor of the State of New Jersey shall accompany the site plan and shall show the boundaries of the parcels and the limits of all proposed streets, recreation areas and other property to be dedicated to public use. The site plan may be accompanied by such other exhibits of an architectural nature submitted by the applicant as may be required by the municipal agency.
- q. All proposed easements and public and community areas. All proposed streets with profiles indicating grading and cross sections showing width of roadway, location and width of sidewalk and location and size of utility lines according to the standards and specifications of the Town.
- r. The proposed use or uses of land and building and proposed location of buildings, including proposed grades. Such features may be indicated on a separate drawing. Floor space of all buildings and estimated number of employees, housing units or other capacity measurements where required shall also be indicated.
- s. All means of vehicular ingress and egress and to and from the site onto public or private Street showing the size and location of driveways and curb cuts, including the possible organizations of traffic channels, acceleration and decelerating lanes, additional width and other traffic controls which may be required. Improvements such as roads, curbs, sidewalks and other traffic controls, which may be required. Improvements such as roads, curbs, sidewalks, and other design detail shall be indicated, including, dimensions of parking stalls, access aisles, curb radii, direction of traffic flow and other conditions as may be required in the Zoning Ordinance.
- t. The location and design of any off-street parking areas or loading areas, showing sizes and locations of bays, aisles and barriers.

- u. The location of all proposed waterlines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment in conformance with the applicable standards of the Town and appropriate utility companies, where applicable.
- v. The proposed location, direction of illumination, power and it me of proposed outdoor lighting in conformance with applicable standards of the Town, including type of standards to be employed, radius of light and intensity of foot candles.
- w. The proposed screening and landscaping and a planting plan in conformance with the applicable standards of the Town indicating natural vegetation to remain, and areas to be planted and type of vegetation to be utilized.
- x. The proposed storm water drainage system as to conform to designs based on New Jersey Department of Environmental Protection of Residential Site Improvement Standards. All site plans shall be accompanied by a plan sketch showing all existing drainage within 500 feet of any boundary and all areas such as paved, areas, grassed areas, wooded areas and any other surface areas contributing to the calculation and should show methods used in the determination.
- y. The site plan should be prepared by a licensed engineer or architect for general location. For topographical and boundary survey information, the site plan shall be signed and sealed by a licensed land surveyor. For all elements of design, which shall include drainage, pavements, curbing walkways, embankments, horizontal and vertical geometries utilities and all pertinent structures, drawings shall be signed and sealed by a licensed professional engineer.
- z. After approval, a miler or linen shall be submitted for signature and title, and all information appearing thereon shall be in black India ink. Additional prints as required shall also be submitted after approval.

§ 27-12.4 Preliminary Approval of Completed Applications.

- a. The Planning Board shall, within forty-five (45) days after submission of a completed application, or within ninety-five (95) days after submission of a completed application involving a development of more than ten (10) acres of land or ten (10) dwelling units, grant or deny preliminary approval of the proposed development or construction, or within such further time as may be consented to by the developer. Otherwise, the Planning Board shall be deemed to have granted preliminary approval of the site plan. However, whenever review or approval of the application by the Hudson County Planning Board is required by N.J.S.A. 40:27-6.6, the reviewing board shall condition any approval on the timely receipt of a favorable report or approval on the application by the Hudson County Planning Board; and when a site plan is submitted as a function of a use or conditional use variance, the time limit requirements for the variance shall prevail.

- b. If the Planning Board requires any substantial amendment in the layout of the improvements proposed by the developer that have been the subject of a hearing, amended application for development shall be submitted and proceeded upon, as in the case of the original development.

§ 27-12.5 Review Standards for Preliminary Approval.

The Planning Board shall, if the proposed development complies with this Chapter and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., grant preliminary approval of the site development plan.

- a. In the course of its review of a site plan application for preliminary approval, the Planning Board shall consider but not be limited to such factors as the following:
 - 1. The adequacy of access for fire and police protection and otherwise.
 - 2. The adequacy of provision for drainage of surface waters and for disposal of all wastes.
 - 3. The location and the layout of accessory off-street parking and off-street loading spaces, the width and grading of all entrances and exits to such places, the location of such exits and entrances, the traffic flow on site and ingress and egress to the site, together with the distance from street intersections, the likelihood of left-hand turns and other turning movements and the likelihood of drawing vehicular traffic to and through local residential streets.
 - 4. The arrangements for safe and convenient pedestrian circulation on the site and on its approaches.
 - 5. The arrangements for exterior lighting needed for safety reasons in addition to any requirements for street lighting.
 - 6. Arrangements to conserve energy and the use of renewable energy sources, if practicable.
 - 7. The impact of the proposed layout upon the surrounding area and particularly upon any nearby residences including, but not limited to:
 - (a) The location, bulk and height of buildings and the extent of their shadows.
 - (b) The location, intensity and direction of any outdoor lighting and the proposed times for its use.
 - (c) The location of any utilities.
 - (d) The likelihood of any other nuisances.
 - (e) Whether appropriate and adequate screening is provided.
 - 8. The size, location and type of any signs and/or outdoor display and their appropriateness in the area involved.
 - 9. The proposed landscaping and its appropriateness in the area involved. Reservation of substantial trees and, where appropriate, existing vegetation is to be encouraged to the maximum extent possible.
 - 10. The arrangement of buildings, structures and open spaces on the site, with particular emphasis on setback requirements and the architectural design of the structure(s) and their impact on surrounding properties.
- b. In its review, the Planning Board shall encourage creative design of the site to provide a more convenient and attractive layout.
- c. As a prerequisite to the issuance of any building permit or Certificate of Occupancy for any use in the nonresidential districts, the applicant shall be required to demonstrate the following:

1. Fire and Explosion Hazards. All activities of operation involving fire or explosive hazards shall be carried on in conformity with the provisions of the Town Fire Prevention Code.
2. Smoke, Fumes, Gases, Dust, Odors. There shall be no emission of any smoke, fumes, gas, dust, odors or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use.
3. Liquid or Solid Waste. No use or occupancy shall discharge industrial waste of any kind into any reservoir, pond, pool or other body of open water. The discharge of untreated industrial waste into a stream shall be approved by the Town and New Jersey State Health Departments. Effluence from a treatment plant shall at all times comply with the standards and requirements of the Town Sewer Ordinance.
4. Vibration. There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which use is conducted.
5. Glare. There shall be no direct sky-reflected glare exceeding 0.5 candle measured at the property line of the lot occupied by such use. This regulation shall not apply to light used at the entrance and exits of service drives leading to a parking lot.
6. No uses shall be permitted which are violative of any of the provisions of this chapter, including but not limited to the ordinances of the Board of Health. There shall be no vehicular access to any use established in nonresidential districts from any street that primarily serves residential neighborhoods.
7. Signs. All signs shall comply with the Town Sign Ordinance.
8. All buildings shall have adequate fire protection facilities and equipment and shall comply in all respects with the Guttenberg Fire Prevention Code.
9. Landscaping.
 - (a) Effective landscaping, including the placement of trees, shrubs and grass, shall be provided in order to ensure the harmonious development of the area wherein a site is located and the attractiveness of the subject premises and to protect the natural resources of the premises. The above mentioned landscaping plan shall include screening as is otherwise required by this chapter.
 - (b) It is the intention of this subsection to provide appropriate screening to conserve the existing natural resources and to develop a natural environment in harmony with the surrounding areas.
10. Trash Disposal. Each site shall provide an area or areas concealed from any parking areas or any adjacent property for the orderly disposal and pickup of trash, approved as part of the site plan.
11. Recyclable Materials. Each site shall provide for the recycling of any and all designated recyclable materials.

§ 27-12.6 (Reserved)

§ 27-12.7 Payment of Taxes and Liens as Condition to Development Approval.
[Ord. 10/18/89 § 12G]

As a condition for approval of any development application, an applicant shall be required to submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is made.

§ 27-12.8 Deviations from Site Plan Standards.

If it can be demonstrated that, because of peculiar conditions relating to the property or proposed construction, any of the above details are not necessary to properly evaluate the site plan, the Planning Board upon written application may modify or waive any of the specific site plan details.

§ 27-12.9 (Reserved).

§ 27-12.10 Off-Tract Improvements.

As a condition for approval of a site plan, the Planning Board may require the developer to pay its pro rata share of the costs of providing reasonable street improvements and water, sewage, and drainage facilities and easements therefor, located outside the property limits of the development but necessitated or required by the construction of improvements within the developments; provided, however, that this subsection shall in no way obligate the Town to install such improvements in order to facilitate development, nor shall the Planning Board approve a development requiring capital expenditure without appropriate action by the Mayor and Town Council.

§ 27-13 FINAL APPROVAL OF MAJOR SITE PLAN DEVELOPMENT.

§ 27-13.1 Procedure.

The Planning Board shall grant final approval upon application of the developer to the Planning Board and upon the Planning Board's final determination that all the conditions of the preliminary approval, including site development work, have been completed and are so certified by the Town Engineer to the Planning Board and the Mayor and Town Council. The applicant submit the application, application fee, escrow deposit, and other materials to the Board Secretary in accordance with Section 26-3A of the Town Code.

§ 27-13.2 Time for Review.

Final approval shall be granted or denied within forty-five (45) days after submission of a complete application to the Planning Board, or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute final approval.

§ 27-13.3 Conditional Approval.

Whenever review or approval of the application by the Hudson County Planning Board is required by law, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Hudson County Planning Board or approval by the Hudson County Planning Board by its failure to report thereon within the required time period.

§ 27-13.4 Violations.

Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit or Certificate of Occupancy, as the case may be, shall be construed to be a violation of this chapter and shall be grounds for the revocation of any building permit, or Certificate of Occupancy, as the case may be. If the Construction Official finds that any conditions of site plan approval have not been met, he shall give the applicant ten (10) days' written notice to comply with the conditions and failure to comply within this ten-day period shall result in the revocation of the building permit or Certificate of Occupancy, as the case may be. Such violations may additionally or singly also be prosecuted by law.

§ 27-14 MISCELLANEOUS PROVISIONS.

§ 27-14.1 Fee for Updating Tax Map.

Upon the approval of any minor or major subdivision, the applicant shall pay to the Town of Guttenberg a fee of \$250 for the purpose of updating and amending the Town of Guttenberg Tax Map to reflect any necessary changes occasioned by said subdivision.

§ 27-14.2 Enforcement.

This chapter shall be administered and enforced by the Building Code Official and Planning Board.

§ 27-14.3 Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, prosperity, and general welfare.

§ 27-15 FACILITIES FOR THE COLLECTION OR STORAGE OF SOURCE SEPARATED RECYCLABLE MATERIALS IN NEW MULTIFAMILY HOUSING DEVELOPMENTS.

§ 27-15.1 Definitions.

As used in this section:

MULTIFAMILY HOUSING DEVELOPMENT

Shall mean a building containing three (3) or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings.

RECYCLING AREA

Shall mean space allocated for collection and storage of source separated recyclable materials.

§ 27-15.2 Required.

There shall be included in any new multifamily housing development that requires subdivision or site plan approval an indoor or outdoor recycling area for the collection and storage of residentially-generated recyclable materials. The dimensions of the recycling area shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with

anticipated usage and with current methods of collection in the area in which the project is located. The dimensions of the recycling area and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to section 3 of P.L. 1987, c. 102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the municipal master plan adopted pursuant to section 26 of P.L. 1987, c. 102.

§ 27-15.3 Location.

The recycling area shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.

§ 27-15.4 Accessibility.

The recycling area shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling area without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling area, and the bins or containers placed therein, against theft of recyclable materials, bins or containers.

§ 27-15.5 Bins and Containers.

The recycling area or the bins or containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.

§ 27-15.6 Signs.

Signs clearly identifying the recycling area and the materials accepted therein shall be posted adjacent to all points of access to the recycling area. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.

§ 27-15.7 Landscaping and Fencing.

Landscaping or fencing shall be provided around any outdoor recycling area and shall be developed in an aesthetically pleasing manner.

Ordinance#15-26 Introduction Vote

A motion to introduce was made by Councilperson Hokien and seconded by Councilperson Habermann
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt
Nays: None
Absent: None
Abstain: None

COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE # 16-26

**AN ORDINANCE AMENDING CHAPTER 28 OF THE TOWN CODE, ENTITLED
“ZONING”**

WHEREAS, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., the Town Council is empowered to adopt and amend a zoning ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, Chapter 28 of the Town Code, entitled “Zoning,” among other things, establishes zoning districts, defines permitted uses therein, sets the bulk standards of uses and buildings within said districts; and

WHEREAS, since its initial adoption in 1987, Chapter 28 and other provisions of the Town Code have been amended and supplemented from time to time; and

WHEREAS, by resolution dated May 15, 2023, the Joint Planning and Zoning Board of Adjustment of the Town of Guttenberg (the “Board”) adopted the Master Plan Reexamination Report, prepared by Jill Hartmann, P.P., AICP, dated May 15, 2023 (the “2023 Reexamination Report”), which, among other things, recommended a comprehensive review and update of Chapter 28 of the Town Code; and

WHEREAS, the Town Council and Mayor, acting on the Board’s recommendations, have undertaken a comprehensive revision of the Town Code provisions relating to land use and procedure, specifically, Chapter 26, entitled “Land Use Procedures,” Chapter 27, entitled “Land Subdivision and Site Plan Review,” and Chapter 28, for the purpose of providing general updates, eliminating obsolete provisions, and reorganizing the provisions thereof in a manner more consistent with the provisions of the Town Code, in a manner consistent with the recommendations of the Board in the 2023 Reexamination Report; and

WHEREAS, on December 18, 2024, the Town Council and Mayor adopted at second reading Ordinance #31-24, entitled “Amending Chapter 28 of the Town Code Concerning Zoning,” which provides for comprehensive updates and amendments to Chapter 28 of the Town Code; and

WHEREAS, prior to the adoption of Ordinance #31-24, on December 16, 2024, the Board adopted Resolution 2024-16, pursuant to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64, in which the Board found the amendments to Chapter 28 proposed by Ordinance #31-24 were consistent with the 2023 Reexamination Report and recommended the adoption of the same; and

WHEREAS, on January 28, 2026, the Town Council and Mayor adopted at second reading Ordinance #3-26, entitled “An Ordinance Amending Chapter 28, ‘Zoning’ of the Revised General Ordinances to Permit the Operation of Cannabis Establishments, Distributors and Delivery Services within the Town of Guttenberg”; and

WHEREAS, prior to the adoption of Ordinance #3-26, on January 21, 2026, the Board adopted Resolution 2024-06, pursuant to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64, in which the Board found the amendments to Chapter 28 proposed by Ordinance #03-26 were consistent with the 2023 Reexamination Report and recommended the adoption of the same but recommended certain alterations to the proposed amendments, which proposals were not implemented prior to the passage of Ordinance #03-26; and

WHEREAS, the Town Council and Mayor have determined to re-adopt the amendments to Chapter 28 contained in Ordinance #31-24 to address any procedural issues concerning the manner of its adoption and to incorporate the additions and amendments to Chapter 28 made following the adoption of Ordinance #31-24, specifically, in Ordinance #03-26, with those suggestions from the Board; and

WHEREAS, the Town Council and Mayor have further determined that it is in the best interest of the Town, its residents, and the public to eliminate the R-5 Zone as a zoning district within the Town;

NOW, THEREFORE, BE IT ORDAINED by the Town Council and Mayor of the Town of Guttenberg, County of Hudson, State of New Jersey that the Revised General Ordinances of the Town of Guttenberg are hereby amended as follows:

I.

Chapter 28 of the Town Code of the Town of Guttenberg is hereby amended as per the attached documents.

II.

Within thirty (30) days from final adoption of this Ordinance, the Town Clerk shall file the Zoning Map with the Hudson County Register in accordance with N.J.S.A. 40:55D-16.

III.

Within thirty (30) days from final adoption of this Ordinance, the Town Clerk shall file a copy of this Ordinance with the Hudson County Planning Board in accordance with N.J.S.A. 40:55D-16.

IV.

Within ten (10) days from final adoption of this Ordinance, the Town Clerk shall publish notice of final adoption in the official newspaper of the Town.

V.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause, or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

VI.

All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency.

VII.

The Town Clerk shall have this Ordinance incorporated in the official copies of the Revised General Ordinances. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error or to change any heading, chapter numbers, article numbers, and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Revised General Ordinances of the Town of Guttenberg, or as they may otherwise deem appropriate, even if headings, chapter numbers, article numbers, and section numbers are otherwise provided for in this Ordinance.

VIII.

This Ordinance shall take effect upon passage and publication as required by law.

CHAPTER 28. ZONING

§ 28-1 TITLE AND PURPOSE.

§ 28-1.1 Title.

This chapter shall be known as “The Zoning Ordinance of the Town of Guttenberg.”

§ 28-1.2 Application.

No building, structure, or land shall be used or occupied, nor shall any building or structure or part thereof be constructed, erected, moved, enlarged, or structurally altered unless in conformity with the regulations of this chapter.

The interpretation of the regulations of this chapter is intended to be such that, whenever its requirements are in variance with any other lawfully adopted statutes, ordinances, regulations, or rules which refer particularly to the area and bulk regulations, and which impose higher standards than those contained herein, the most restrictive requirements shall govern.

§ 28-1.3 Purpose.

This chapter is designed to accomplish the following objectives:

- a. To promote, protect, and facilitate the public health, safety, and general welfare, and to make provisions for adequate community facilities and utilities;
- b. To promote orderly development;
- c. To prevent loss of life, health, or property from fire, panic, floods, and other dangers;
- d. To provide adequate light and air;
- e. To prevent the overcrowding of land;
- f. To avoid undue concentration of population;
- g. To lessen congestion in the streets and to determine the proper location and function streets;

- h. To facilitate the adequate provision of vehicle parking and loadings, transportation systems, water, sewerage, schools, parks, and other public requirements;
- i. To regulate the intensity of the use of land;
- j. To prohibit the incompatible use of land;
- k. To attain the Town's developments as outlined in the Town's Master Plan;
- l. To conserve, maintain, and strengthen the Town's tax base.

§ 28-2 DEFINITIONS AND INTERPRETATION OF LANGUAGE.

§ 28-2.1 Interpretation of Language.

For the purpose of this chapter, the following words and phrases shall have the meaning assigned to them: words used in the present tense include the future; the singular member includes the plural and the plural the singular; the word "shall" is always mandatory; the word "building" shall include the word "structure" and any portion thereof; the phrase "used for" includes individual, partnership, corporation, limited liability company, or any other similar entity.

§ 28-2.2 Definitions.

As used in this section:

ACCESS DRIVE

Shall mean a paved surface, other than a street, which provides vehicular access from a street or private road to a lot.

ACCESSORY BUILDING

Shall mean a building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

ACCESSORY USE

Shall mean:

- a. A use conducted on the same lot as a principal use to which it is related, and located either within the same structure or in an accessory structure or as an accessory use of land; except that off-street parking need not be located on the same lot,
- b. Clearly incidental to, and customarily found in connection with a particular principal use, and
- c. Either in the same ownership as such principal use or operated and maintained on one lot with such principal use for the express benefit of its owner, employees, customers, or visitors.

An accessory use includes:

- a. Residential accommodations for caretakers of institutions and large commercial or industrial uses.
- b. Keeping of domestic animals, but not for sale or hire.
- c. Swimming pools whose use is restricted to the occupants of the principal use and guests for whom no admission or membership fee is charged.
- d. Domestic or agricultural storage customarily found in barn, shed, tool room, or similar structure.
- e. Incinerators.
- f. In connection with permitted commercial or manufacturing uses, the storage of goods normally carried in stock, used in, or produced by such uses, unless the storage is expressly prohibited under the

applicable district regulations. The floor area used for such accessory storage shall be included in the maximum floor area permitted for the specified use.

g. The removal for sale or otherwise of loam, clay, sand, gravel, or stone in connection with the construction of a building or other structure on the same lot, but in no case to a point below the legal street grade.

h. Accessory off-street parking spaces, open or enclosed.

i. Accessory off-street loading berths.

j. Accessory signs.

k. Accessory radio or television antennas.

l. Home occupation.

AIR POLLUTION

Shall mean the presence in the outdoor atmosphere of any form of contaminant in such place, manner, or concentration inimical or which may be inimical to the public health, safety or welfare or which is, or may be injurious to human, plant or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

ALLEY

Shall mean a minor way, which may not be legally dedicated, used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

ALTERATIONS

Shall mean any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, guides, or interior partitions, as well as any change in doors or windows, or an enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

AMENDMENT

Shall mean a change in use in any district which includes revisions to the zoning text or the Zoning Map; and the authority for any amendment lies solely with the Town.

AREA, BUILDING

Shall mean the total area taken on a horizontal plane at the level of the ground surrounding the main building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

AUTOMOBILE SALES LOT

Shall mean an open lot, used for the outdoor display or sales of new or used automobiles and where minor and incidental repair work (other than body and fender) may be done.

AUTOMOBILE REPAIR GARAGE

Shall mean a building on a lot designed or used primarily for mechanical or body repairs, storage, rental, servicing, or supplying of gasoline or oil to automobiles, trucks, or similar motor vehicles.

GASOLINE SERVICE STATION

Shall mean a building on a lot or part thereof, that is used primarily for the retail sale of gasoline, oil, other fuel, and which may include facilities used for polishing, greasing, washing, dry-cleaning, or otherwise cleaning or servicing automobiles and other vehicles.

BASEMENT

Shall mean a level of a building whose floor is more than twelve (12) inches, but not more than half of its story height, below the average level of the adjoining ground (as distinguished from a cellar which is a story more than one-half below such level).

BILLBOARD

Shall mean:

- a. A sign indicating a business other than one conducted on the premises on which said sign is located, and
- b. Upon which matter of any character is printed, posted, or lettered by any means, for the purpose of advertising.

A billboard may be either freestanding or attached to a surface of a building or other structure.

BLOCK

Shall mean a tract of land bounded by any combination of the following:

- a. Streets.
- b. Public park.
- c. Railroad right-of-way, excluding siding and spurs.
- d. Corporate boundary lines of the Municipality.

BOARDING HOUSE

Shall mean a building, where for compensation, provisions are made for lodging and meals for at least three persons and shall also include dormitories whether or not such include cooking facilities.

BUILDING

Shall mean any structure permanently affixed to the land having a roof supported by columns or walls used for shelter or enclosures. When divided into separate parts by one or more unpierced walls extending from the ground up, each part is deemed a separate building, except as regards minimum side yard requirements.

BUILDING LINE

Shall mean a line parallel to the front, side, or rear lot line set so as to provide the required yard.

BUILDING, PRINCIPAL

Shall mean a building which contains the principal use of the building site on which it is situated. In a residential district, a dwelling is a principal building on the zone lot.

BULK

Shall mean the size of buildings or other structures and their relationship to one another to open areas such as yards, and to lot lines. The term bulk, therefore, includes:

- a. The size, including height and floor area, of building or other structure.
- b. The relation of the number of dwelling units in a residential building to the area of the lot.
- c. The relation of buildings and other structures to areas in open yards.

CANNABIS

Means all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant, which are cultivated and, when applicable, manufactured in accordance with P.L. 2021, c. 16 (C. 24:6I-31 et al.) for use in cannabis products as set forth in this act, but shall not include the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. "Cannabis" does not include: medical cannabis dispensed to registered qualifying patients pursuant to the "Jake Honig Compassionate Use Medical Cannabis Act," P.L. 2009, c. 307 (C. 24:6I-1 et al.) and P.L. 2015, c. 158 (C. 18A:40-12.22 et al.); marijuana as defined in N.J.S.2C:35-2 and applied to any offense set forth in chapters 35, 35A, and 36 of Title 2C of the New Jersey Statutes, or P.L. 2001, c. 114 (C. 2C:35B-1 et seq.), or marihuana as defined in section 2 of P.L. 1970, c. 226 (C. 24:21-2) and applied to any offense set forth in the "New Jersey Controlled Dangerous Substances Act," P.L. 1970, c. 226 (C. 24:21-1 et al.); or hemp or a hemp product cultivated, handled, processed, transported, or sold pursuant to the "New Jersey Hemp Farming Act," P.L. 2019, c. 238 (C. 4:28-6 et al.).

CANNABIS CULTIVATOR

Means any licensed person or entity that grows, cultivates, or produces cannabis in this State, and sells, and may transport, this cannabis to other cannabis cultivators, or usable cannabis to cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS DELIVERY SERVICE

Means any licensed person or entity that provides courier services for consumer purchases of cannabis items and related supplies fulfilled by a cannabis retailer in order to make deliveries of the cannabis items and related supplies to that consumer, and which services include the ability of a consumer to purchase the cannabis items directly through the cannabis delivery service, which after presenting the purchase order to the cannabis retailer for fulfillment, is delivered to that consumer.

CANNABIS DISTRIBUTOR

Means any licensed person or entity that transports cannabis in bulk intrastate from one licensed cannabis cultivator to another licensed cannabis cultivator, or transports cannabis items in bulk intrastate from any one class of licensed cannabis establishment to another class of licensed cannabis establishment, and may engage in the temporary storage of cannabis or cannabis items as necessary to carry out transportation activities.

CANNABIS ESTABLISHMENT

Means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

CANNABIS MANUFACTURER

Means any licensed person or entity that processes cannabis items in this State by purchasing or otherwise obtaining usable cannabis, manufacturing, preparing, and packaging cannabis items, and selling, and optionally transporting, these items to other cannabis manufacturers, cannabis wholesalers, or cannabis retailers, but not to consumers.

CANNABIS RETAILER

Means any licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators and cannabis items from cannabis manufacturers or cannabis wholesalers, and sells these to consumers from a retail store, and may use a cannabis delivery service or a certified cannabis handler for the off-premises delivery of cannabis items and related supplies to consumers. A cannabis retailer shall also accept consumer purchases to be fulfilled from its retail store that are presented by a cannabis delivery service which will be delivered by the cannabis delivery service to that consumer.

CANNABIS WHOLESALER

Means any licensed person or entity that purchases or otherwise obtains, stores, sells or otherwise transfers, and may transport, cannabis items for the purpose of resale or other transfer to either another cannabis wholesaler or to a cannabis retailer, but not to consumers.

CELLAR

Shall mean a level of a building partly underground and having more than one-half of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the required number of stories, unless the cellar is used as a separate dwelling unit or units, other than for a janitor or caretaker or his family, in which case, it shall be deemed the first story for purposes of determining the height of a building.

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.

CONSTRUCTION

Shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

COURT

Shall mean any 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.

COVERAGE

Shall mean the percentage of the plot or lot area covered by the area of all buildings and structures thereon.

DEMOLITION

Shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

DENSITY

Shall mean a measure of the number of dwelling units per acre of area. It shall be expressed in dwelling units per acre.

a. Density, gross. This is the maximum density that may be permitted in any zoning district. It is calculated by dividing the total number of dwelling units by the base site area. This density is illustrative only, net density is controlling.

b. Density, net. This is the maximum density permitted on the buildable portion of the site. All tracts of land within a district may be developed to the same net density. Net density is calculated by dividing the total number of dwelling units by the new buildable site area. This density controls actual site capacity.

DETACHED BUILDING

Shall mean a structure that has yards on all four sides or, in lieu of a front yard, fronts on a public right-of-way.

DISTRICT

Shall mean a portion of the territory of the municipality within which certain uniform regulations and requirements apply under the provisions of this chapter.

DWELLING OR RESIDENTIAL STRUCTURE

Shall mean any structure containing one or more rooms providing sleeping and sanitary facilities, not including a motel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house, boarding house, or similar structure.

DWELLING UNIT

Shall mean one or more rooms for living purposes, together with separate cooking and sanitary facilities used or intended to be used by one or more persons living together and maintaining a family or common household, and accessible from the outdoors either directly or through an entrance hall shared with other dwelling units.

DWELLING, ONE-FAMILY, ATTACHED

Shall mean a dwelling structure with one dwelling unit and having two party walls in common with other dwelling structures.

DWELLING, ONE-FAMILY, DETACHED

Shall mean a dwelling structure used by one family, having only one dwelling unit and having two side yards.

DWELLING, ONE-FAMILY, SEMIDETACHED

Shall mean a dwelling structure used by one family, having one side yard, and one party wall in common with another building.

DWELLING, TWO-FAMILY, ATTACHED

Shall mean a dwelling structure with two dwelling units, with one dwelling unit arranged over the other and having two party walls in common with other dwelling structures.

DWELLING, TWO-FAMILY, DETACHED

Shall mean a dwelling structure used by two families, with one dwelling unit arranged over the other and having two side yards.

DWELLING, TWO-FAMILY, SEMIDETACHED

Shall mean a dwelling structure used by two families, with one dwelling unit arranged over the other, having one side yard, and one party wall in common with another building.

ENFORCING OFFICER

Shall mean the Construction Official, License Inspector, or such other official as may be designated by the governing body to administer and enforce the Zoning Ordinance.

ENLARGEMENT

Shall mean an addition to the floor area of an existing building or an increase of a tract of land into a contiguous tract of land.

ENTERTAINMENT FACILITIES

Shall mean any activity conducted for gain which is generally related to the entertainment field, such as motion picture theaters, bowling alleys, roller skating rinks, miniature golf, golf driving ranges, commercial swimming pools, carnivals and related uses.

ESSENTIAL SERVICES

Shall mean the construction or maintenance, by public utilities, public authorized cable television companies or governmental agencies, of gas, solid waste, electrical, telephone, sewage or water distribution systems. These include equipment such as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment which conform to the height regulations of the district in which they are proposed; except that buildings and electric substations are excluded.

FAMILY

Shall mean:

- a. A single competent and responsible person occupying a dwelling unit and maintaining a household, or
- b. A household head and one or more other persons related by blood or marriage, occupying a dwelling unit, living together and maintaining a common household, or
- c. Two or more but not in excess of five unrelated competent responsible persons, at least one of whom shall be an adult occupying a dwelling unit, living together and maintaining a common household.

FLOOR AREA

Shall mean the sum of the gross area of the several floors of a building or buildings measured from the face of exterior walls or from centerlines of walls separating two buildings. In particular, floor area includes:

- a. Basement space, except such enclosure as does not have any windows or exterior walls.
- b. Elevator shafts, stairwells and attic space (whether or not a floor has been laid) providing structural headroom of eight feet or more.
- c. Roofed terraces, exterior balconies, breezeways or porches, provided that over 50% of the perimeter of these is enclosed.
- d. Any other floor space used for dwelling purposes, no matter where located within a building.
- e. Accessory buildings, excluding space used for accessory off-street parking or for loading berths.
- f. Any other floor space not specifically excluded, except space used for air conditioning machinery or cooling towers and similar mechanical equipment serving the building and cellar space.

FLOOR AREA RATIO

Shall mean the total floor area allowable on a given lot, divided by the area of that lot. (For example, a building containing 15,000 square feet of floor area on a given lot of 10,000 square feet of lot area has floor area ratio of 1.5).

FLOOR AREA, HABITABLE

Shall mean the sum of the horizontal areas of all rooms used for habitation, such as living room, kitchen, or bedroom, but not including hallways, stairways, cellars, attics, service rooms or utility rooms, bathrooms, closets, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. Such area shall have a clear height of 7 1/2 feet.

GARAGE, PRIVATE

Shall mean an accessory building or section of a principal structure for the storage of one or more automobiles or other vehicles accessory and incidental to the primary use of the premises, provided that no business, occupation, or service is conducted for profit therein, nor space therein for more than one automobile is leased to a non-occupant of the premises.

GRADE, FINISHED

Shall mean the completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

HEIGHT OF BUILDING

Shall mean the vertical distance measured from the average level of finished grade along all the exterior walls of a building to:

- a. The highest point of the roof, in the case of a flat roof;
- b. The mean height between eaves and ridge, in the case of a pitched roof;
- c. The highest point on any structure which rises wholly or partly above the roof line, and whose area equals or exceeds 20% of the ground floor area of the building which supports it.

HEIGHT OF SIGN

Shall mean the vertical distance measured:

- a. From ground level to the highest point on the sign itself and/or its supporting structure.
- b. Along the face of the sign or its supporting frame from lowest point to the highest.

HOME OCCUPATION

Shall mean an accessory use which:

- a. Is clearly incidental or secondary to the residential use of the dwelling unit; or
- b. Is customarily carried on within a dwelling unit or accessory building by one or more occupants of such dwelling unit, except that, in connection with the practice of the medical profession or with other offices whose operations require supplementary secretarial, clerical, accounting or drafting skills, one person not residing in such dwellings may be employed; and
- c. Does not include the housing, care, or education of persons who normally would be subject to institutionalization for mental, physical, criminal or like reasons.

In connection with the operation of a home occupation it shall not be permitted:

- a. To sell articles produced elsewhere than on the premises.
- b. To have exterior displays of goods visible from the outside.
- c. To store materials or products outside a principal or accessory building or other structure.

- d. To make external alterations which are not customary in residential buildings.
- e. To produce offensive and disturbing noise, smoke, odor or other objectionable affects.

HOSPITAL

Shall mean a place for the diagnosis, treatment, or other care of humans and having facilities for inpatient care including such establishments as a sanatorium, sanitarium, and preventorium.

HOTEL

Shall have the same meaning as motel.

IMPERVIOUS SURFACES

Shall mean those that do not absorb rain. All buildings, parking areas, driveways, roads, sidewalks, and any other areas in concrete and asphalt shall be considered impervious surfaces within this definition. In addition, other areas determined by the Engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces.

LOT

Shall mean a piece or parcel of land occupied by a principal building or a group of such buildings, or utilized for a principal use and uses accessory or incidental to the operation thereof. It includes open spaces as required by this chapter, and has frontage on a public street. The lot lines are the property lines bounding the lot.

LOT, CORNER

Shall mean a lot abutting upon the intersection of two or more streets which form an interior angle of less than 135°. The point of intersection of the street lot lines is the “corner.” A lot other than a corner lot is known as an “interior” lot.

LOT, DEPTH

Shall mean horizontal distance between the front and the rear lot lines.

LOT LINE

Shall mean:

1. Lot Line, Front. The line separating the lot from a street.
2. Lot Line, Rear. The lot line opposite and most distant from the front lot line.
3. Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line.
4. Lot Line, Street or Alley. A lot separating the lot from a street or alley.

LOT, WIDTH

Shall mean width of the lot measured at right angles to its depth.

LOT AREA

Shall mean computed area contained within the lot lines.

MARIJUANA

Shall have the meaning given in N.J.S.A 24:6I-3.

MID-RISE RESIDENTIAL BUILDING

Shall mean a residential building consisting of at least four stories and no more than eight stories.

MOBILE HOME

Shall mean a transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME LOT

Shall mean a parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased by the park owner to the occupants of the mobile home erected on the lot.

MOBILE HOME PARK

Shall mean a parcel of land that has been planned and improved for the placement of mobile homes for nontransient use and consisting of two or more mobile home lots. Mobile home parks may be planned as single-family detached, single-family cluster, or performance subdivisions.

MOBILE HOME, DEPENDENT

Shall mean a mobile home which is not equipped with a toilet and/or bathtub or shower.

MOBILE HOME, INDEPENDENT

Shall mean a mobile home equipped with a toilet and bathtub or shower.

MOTEL

Shall mean a building designed for occupancy as the temporary residence of individuals who are lodged with or without meals. No cooking is provided in any individual rooms or suites, but restaurants, cocktail lounges, banquet halls, ballrooms and meeting rooms are permitted as accessory uses.

MOTOR VEHICLE REPAIR SHOP

Shall mean a building, or portion of a building, arranged, intended or designed to be used for making repairs to motor vehicles.

MULTIFAMILY RESIDENCE

Shall mean a building designed for or utilized as two or more dwelling units, each supplied with individual cooking, sleeping, and sanitary facilities.

NOISE

Shall mean any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NONCONFORMING USE

Shall mean a use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was

lawfully in existence prior to the enactment of such ordinance or amendment to its location by reason of annexation. No principal permitted use or special use shall be considered nonconforming if the yards, height, area, coverage dimensions, signs or off-street parking do not conform with the regulations of the district in which it is located.

NURSING OR CONVALESCENT HOME

Shall mean a building designed and used for the full time care of human beings and which may include housing or lodging; meals; and nursing care.

OFFICE BUILDING

Shall mean a building comprised of more than 50% of professional offices.

OFFICIAL MAP

Shall mean a map officially adopted by ordinance of the Municipality consisting of surveys of the exact location of the lines of existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closings of same for the whole of the municipality.

OPEN SPACE

Shall mean land used for recreation, agriculture, resource protection, amenity, or buffers; is freely accessible to all residents of the development, and is protected by the provisions of this chapter to ensure that it remains in such uses. Open space does not include land occupied by nonrecreational buildings, roads, or road rights of way; nor does it include the yards or lots of single or multifamily dwelling units or parking areas as required by the provisions of this chapter.

OPEN SPACE RATIO

Shall mean the measure of the intensity of land use. It is arrived at by dividing total amount of open space within the site by the base site area.

OPEN SPACE, COMMON

Shall mean a parcel or parcels of land on an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the planned residential development, not including streets, off-street parking areas, and areas set aside for public facilities.

PARKING SPACE

Shall mean:

- a. Open space with a dustless all weather surface, or space in a private garage or other structure.
- b. An area of at least 10 feet by 20 feet in size, for the storage of one automobile, accessible from a public way.

PERMITTED PRINCIPAL USE

Shall mean any use requiring no special action by the Planning Board before a zoning permit is granted by the Zoning Official, subject to all other applicable provisions of this chapter.

PERSON

Shall mean any individual, public or private corporation for profit or not for profit, association, partnership, firm, trust, estate, department, board, bureau or agency of the State, political subdivision,

municipality, district, authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PLACE OF WORSHIP

Shall mean a building principally used for religious purposes, such as a church, synagogue, temple, or mosque.

PLAN OR PLAT

Shall mean a map, plan, or layout showing the subdivision of land indicating the location and boundaries of individual properties.

PLANNED RESIDENTIAL DEVELOPMENT

Shall mean an area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, the development plan for which does not correspond in lot size, bulk or type of dwelling, density, lot coverage and required open space to the regulations established in any one residential district created, from time to time, under the provisions of this Zoning Ordinance.

PLANNING BOARD

Shall mean the Planning Board of the Town of Guttenberg, created by Chapter 26, Section 1.1 of the Town Code, and exercising the powers of a zoning board of adjustment pursuant to Chapter 26, Section 2.2 of the Town Code. Whenever the term "Planning Board" is used where the jurisdiction of the matter would ordinarily lie with a zoning board of adjustment, "Planning Board" shall refer to the Planning Board when exercising the powers of a zoning board of adjustment pursuant to N.J.S.A. 40:55DS-23.1((c).

PRIVATE ROAD

Shall mean a right-of-way other than a street which provides vehicular access to two or more lots, but which has not been dedicated for public use.

PROFESSIONAL OFFICES

Shall mean the use of offices and related spaces for such professional services as are provided by doctors, dentists, lawyers, architects, engineers, planners, realtors and the like.

PUBLIC

Shall mean owned, operated or controlled by a government agency (Federal, State or local, including a corporation created by law for the performance of certain specialized governmental functions, and the Board of Public Education).

PUBLIC GROUNDS

Shall mean and include (a) parks, playgrounds and other public areas; and (b) sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities.

PUBLIC RIGHT-OF-WAY

Shall mean any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

RESIDENTIAL TOWER

Shall mean a residential building between forty (40) and Fifty (50) stories in height.

RETAIL ESTABLISHMENT

Shall mean a business at which goods are purchased and sold. This definition shall exclude any form of business that is specifically defined in this Section 28.2.

ROOMING HOUSE

Shall mean a dwelling which has more than one sleeping room for rent to persons not related to its other occupants. The term “rooming house” includes the term “boarding house.”

SCHOOL

Shall mean a place offering instruction in any branch of knowledge under the supervision of the State of New Jersey or a lawfully constituted ecclesiastical governing body, person, partnership or corporation meeting the requirements of the State of New Jersey.

SCHOOL, NURSERY

Shall mean any place designed and operated to provide regular instruction and daytime care for two or more children under the age of elementary school.

SEMIPUBLIC USES

Shall mean places of worship, private schools, colleges, hospitals, and other institutions of an educational, religious, charitable, or philanthropic nature.

SERVICE ESTABLISHMENT

Shall mean a business at which services are provided, including but not limited to laundromats, drycleaners, barber shops, tailoring shops, hair and nail salons, banks, gyms, and such businesses.

SEX SHOP

Shall mean any establishment which:

- a. In whole or in part, sells, leases, dispenses or displays photographs, drawings, films or reproductions of any type depicting explicit or implied sex acts; or
- b. Exhibits or permits the exhibition of live sexual acts or implied sexual acts; or solicits, or permits solicitation, persons and/or animals for purposes of indulging in sexual relations or implied sexual relations.

SHOPPING MALL

Shall mean an enclosed building containing multiple locations. Shopping malls may include retail establishments, service establishments, restaurants, professional offices, and other appropriate uses.

SIGN

Shall mean any surface, fabric, device, or structure (including billboard, or poster panel) bearing lettered, pictorial or sculptured matter designed for visual communication and used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or any official traffic control sign or device.

SIGN, ADVERTISING

Shall mean a sign which directs attention to a business, commodity, service or entertainment which is not sold or offered upon the same premises where the sign is located.

SIGN, BUSINESS

Shall mean a sign which directs attention to a business, profession, commodity, service or entertainment which is sold or offered upon the same premises where the sign is located.

SIGN, DEVELOPMENT

Shall mean signs advertising the sale or development of the premises upon which they are erected.

SIGN, FLASHING

Shall mean an illuminated sign which revolves or has alternating light or color while in use.

SIGN, GROSS SURFACE AREA OF

Shall mean the entire area within a single continuous perimeter enclosing the extreme limits of the sign and not passing through or between any adjacent elements of same. However, the perimeter does not include any structural or framing elements lying outside the limits of the sign and not forming an integral part of the display.

SIGN, INSTITUTIONAL

Shall mean signs of schools, colleges, churches, hospitals, sanitariums or other institutions of a similar public or semipublic nature.

SIGN, NAME PLATES AND IDENTIFICATION

Shall mean signs indicating the name or address of the occupant, or a permitted home occupation.

SIGN, TEMPORARY

Shall mean:

- a. Offers premises for sale, rent or development.
- b. Advertises the services of building trades engaged in construction or alteration of the premises upon which the sign is located or
- c. Advertises a special event.

SIGNS, DIRECTIONAL

Shall mean signs, indicating the location and direction of premises available for or in process of development, but not erected upon the premises and bearing the name of the owner, developer, builder or agent.

SITE

Shall mean a parcel or parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

SITE AREA

Shall mean all land area within the site as defined in the deed. Area shall be from an actual site survey rather than from a deed description.

SMOKE SHOP

Shall mean any premises dedicated as a principal business to display, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia, including providing an area for smoking tobacco products, but excluding any grocery store, supermarket, convenience store or similar retail use that sells tobacco product, shall not be included within the definition of smoke shop. An area for “smoking” shall mean the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter of substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

STORY

Shall mean the portion of a building included between the surfaces of any floor and the floor above it. If there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, FIRST

Shall mean the lowest story or the ground story of any building, the floor of which is not more than 12 inches below the average contact ground level at the exterior walls of the building. Any basement or cellar that includes a dwelling unit, other than for a janitor or caretaker or his family, shall be deemed the first story.

STORY, HALF

Shall mean a [partial story under a gable, hip, or gambrel roof, the wall places of which on at least two opposite exterior walls are not more than four feet above the floor of such story. Any partial story used for residence purposes, other than for a janitor and his family, shall be deemed a full story.](#)

STREET

Shall mean and include public street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians. The term “street” as defined above shall include the land within the right-of-way lands whether improved or unimproved.

STREET GRADE

Shall mean the officially established grade of the street upon which a lot fronts or in its absence the establishment grade of other streets upon which the lot abuts, at the midway of the frontage of the lot thereon. If there is no official established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

STREET LINE

Shall mean the dividing line between the street and lot, also known as right-of-way line.

STRUCTURE

Shall mean any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVISION

Shall mean the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease.

USE

Shall mean the specific purpose for which land or a building is designed, arranged, intended or for which it is or may not be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

VAPE SHOP

Shall mean any premises dedicated as a principal business to display, sale, distribution, delivery, offering, furnishing or marketing of electronic smoking devices, liquid nicotine containers or vapor product as defined by N.J.S.A. 26:3D-57, N.J.S.A. 2A:170-51.9(a)(2), N.J.S.A. 2A:170-51.9(a)(3) and N.J.S.A. 2A:170-51.9(a)(4), including an area for vaping. An area for “vaping” shall mean the inhaling or exhaling of smoke or vapor from any electronic smoking device.

VARIANCE

Shall mean the authorized departure from the requirements of the chapter in accordance with the procedures set forth in this chapter.

YARD

Shall mean a space open to the sky and unoccupied by any building, structure or merchandise for display or sale, located on the same lot with a building or structure.

YARD, FRONT

Shall mean a yard extending the full width of the lot and situated between the street right-of-way line and the required front setback line projected to the side lines of the lot. The depth of the front yard shall be measured between the required front setback line and the street right-of-way line.

YARD, INTERIOR

Shall mean an open, unoccupied space between the buildings of a dwelling group or its accessory buildings, not a front, side or rear yard.

YARD, REAR

Shall mean a yard extending the full width of the lot and situated between the rear line of the lot and the required rear setback line projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the required rear setback line.

YARD, SIDE

Shall mean a yard situated between the required setback line and the side line of the lot and extending from the front yard to the rear yard. Any yard not a rear yard or a front yard shall be deemed a side yard.

ZONING CERTIFICATE

Shall mean the written authorization issued by the Zoning Officer, for use of land or buildings or other structures.

ZONING MAP

Shall mean the map or maps containing the zoning districts of the Town of Guttenberg, together with all amendments subsequently adopted.

ZONING OFFICIAL OR ZONING OFFICER

Shall mean the administrative officer, appointed by the municipality, who shall administer and enforce the provisions of this chapter.

§ 28-2.3 Undefined Terms

All other terms used in this Chapter not expressly defined by Section 28-2.2 shall have the meanings provided by N.J.S.A. 40:55D-3 through -7. Terms not expressly defined herein or in N.J.S.A. 40:55D-3 through -7 shall be defined by the latest edition of “Webster’s New Collegiate Dictionary.” Any term not defined in this section or not within the latest edition of “Webster’s Collegiate Dictionary” shall be as determined by the Planning Board taken from any other appropriate source. After the application of any such definitions, they shall become part of this section and may not be changed without amending this Zoning Ordinance.

§ 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

§ 28-3.2 Zoning Map.

The boundaries of the zoning districts shall be as shown upon the map entitled Zoning Map, Town of Guttenberg, dated **FILL IN DATE**, prepared by Remington & Vernick Engineers, on file with the Office of the Town Clerk, which shall be the Zoning Map. Any change in the boundaries as delineated on the Zoning Map shall be made on the Zoning Map promptly after any amendment to the Zoning Ordinance has been approved by the Town Council and Mayor of the Town of Guttenberg.

§ 28-3.3 Interpretation of District Boundaries.

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- a. Boundaries indicated as approximately following the center line of streets, shall be construed to follow such center line;
- b. Boundaries indicated as approximately following lot lines and municipal limit lines shall be construed as following such lot lines and the municipal limit lines;
- c. Any dimensions shown shall be in feet and measured horizontally and, when measured from a street, shall be measured from the public right-of-way line;
- d. In cases of uncertainty or disagreement as to the true location of any district line, the Planning Board shall interpret the district boundary.

§ 28-4 DISTRICT REGULATIONS.

§ 28-4.1 Basic Regulations.

The basic regulations governing the use of land and buildings, and the size of lots, yards, and buildings within each zoning district are hereby established in this section.

§ 28-4.2 Conformity Required.

In addition to the uses specifically prohibited by this section, no building shall hereafter be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building or portion of any land or building be used, designed, or arranged to be used for any purpose unless in conformity with the regulations as herein contained for that specific district.

§ 28-4.3 Lot Requirements.

Every principal building shall be located on a lot as defined in this chapter. Except as otherwise prescribed, no more than one principal residential building and its accessory buildings shall hereafter be erected on any one lot.

§ 28-4.4 Schedule of District Regulations.

The regulations prescribed for each of the zoning districts listed in section 28-3.1 are described in the "Schedule of District Regulations." The Schedule is hereby adopted and made a part of this chapter and may be amended in the same manner as any other part of this chapter.

§ 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.
 - 2. Permitted Accessory Uses:
 - (a) Off-street parking or private garages.
 - (b) Professional offices.
 - (c) Home occupations.
 - (d) Swimming pools.
 - (e) Signs.

- (f) Public parks.
- 3. Permitted Conditional Uses:
 - (a) Attached or semi-attached one- and two-family dwellings.
 - (b) Mid-rise residential buildings.
 - (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.
- b. Bulk Regulations:
 - 1. Permitted Principal Use Standards:
 - (a) Minimum lot area: 2,500 square feet.
 - (b) Minimum lot width: 25 feet.
 - (c) Minimum front yard: existing average.
 - (d) Minimum side yard (one): two feet.
 - (e) Minimum side yard (both): five feet, one inch.
 - (f) Minimum rear yard: 25 feet.
 - (g) Maximum building height: three stories/35 feet.
 - (h) Maximum building coverage: 40%.
 - (i) Maximum lot coverage: 75%.
 - 2. Permitted conditional use standards: Bulk regulations for conditional uses shall be those set forth in Section 28-9.

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

- a. Use Regulations:
 - 1. Permitted Principal Use: Residential towers.
 - 2. Permitted Accessory Use:
 - (a) shopping mall;
 - (b) Subordinate uses typically associated with multifamily residential development including, but not limited to swimming pools, gymnasiums, barbecue areas, meeting rooms, storage facilities, and outdoor private park areas.
 - 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%.
 - 5. One paved on-site parking space shall be provided for each dwelling unit.
 - 6. At least one loading space per structure shall be provided.
 - 7. A shopping mall may be provided as an accessory use provided that such area shall not exceed a height of three stories or 35 feet.
 - 8. All open areas other than those used for parking, loading, recreation, vehicular pedestrian use shall be graded, planted, landscaped and properly maintained. All parking areas shall be screened on

their periphery by means of planting or fencing or a decorated block wall having a height of at least 4-1/2 feet.

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

- a. Use Regulations:
 - 1. Permitted principal use: Attached or semi-attached dwellings.
 - 2. Permitted Accessory Uses:
 - (a) Off-street parking or private garages.
 - (b) Professional offices.
 - (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 lot depth: 100 feet.
 - 4. Minimum front yard: five feet.
 - 5. Minimum side yard: five feet.
 - 6. Minimum rear yard: 25 feet.
 - 7. Maximum building height: three stories/35 feet.
 - 8. Maximum building coverage: 60%.

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

- a. Use Regulations:
 - 1. Permitted Principal Uses:
 - (a) Mid-rise residential buildings.
 - (b) Retail establishments and service establishments on first story only.
 - (c) Restaurants.
 - 2. Permitted Accessory Uses:
 - (a) Off-street parking or private garages.
 - (b) Professional offices.
 - (c) Home occupations.
 - (d) Subordinate uses typically associated with multifamily residential development including, but not limited to swimming pools, gymnasiums, barbecue areas, meeting rooms, storage facilities, and outdoor private park areas.
 - (e) Signs.
 - (f) Public parks.
 - 3. Permitted Conditional Uses:(a) detached one- and two-family dwellings.
- b. Bulk Regulations for Permitted Principal Uses:
 - 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: 100 feet.
 - (d) Minimum front yard: 5 feet.
 - (e) Minimum side yard: 3 feet, 1 inch on one side or combined 5 feet both sides.
 - (f) Minimum rear yard: 5 feet.
 - (g) Maximum building height four stories/50 feet exclusive of roof appurtenances on lots of at least 5,000 square feet, with one additional story and 10 feet for each additional 2,500 square feet, starting at 7,500 square feet, up to six stories 70 feet, and seven stories and 80 feet for lots with at least 15,000 square feet, exclusive of roof appurtenances.
 - (h) Maximum impervious coverage inclusive of building coverage: 90%.
 - (i) Minimum open space: 10%,
2. For Lots 20,000 Square Feet or Greater in Area:
- (a) Minimum lot area: 20,000 square feet.
 - (b) Minimum lot width: 100 feet.
 - (c) Minimum lot depth: 200 feet.
 - (d) Minimum front yard setback: 10 feet.
 - (e) Minimum side yard setback: 3 feet on each side.
 - (f) Minimum rear yard setback: 5 feet.
 - (g) Maximum building height: eight stories and 90 feet exclusive of roof appurtenances.
 - (h) Maximum impervious surface coverage inclusive of building coverage: 90%.
 - (i) Minimum open space: 10%.
- c. Additional Regulations for Permitted Principal Uses:
- 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. Off-Street Parking. Off-street parking shall be provided as follows:
 - (a) Parking spaces shall be dedicated to the respective residential units as part of any lease or deed, and to the extent that the total number of parking spaces for any development exceeds the ratio of one space per residential unit then at least one space shall be designated for each residential unit. Such dedication shall be included as part of the lease/rental agreement or deed, and shall not require a separate fee, charge or payment from the owner/tenant/lessee/occupant. Parking spaces not used by the occupancy of a dwelling unit may be leased to non-residents of the dwelling on a month-to-month basis, provided that if a new occupant of the dwelling unit has need of a parking space, such lease to a non-resident tenant shall be terminated, and provided adequate security measures are in place for the protection of occupants of the building.
 - (b) Table 4.4 of N.J.A.C. 5:21 of the New Jersey Administrative Code, entitled Residential Site Improvement Standards governs the required off-street parking for all residential development in the Town of Guttenberg. However, N.J.A.C. 5:21-4.14(c) permits alternate parking standards if the applicant can demonstrate these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location and available off-site parking resources. If the applicant can demonstrate that reduced off-street parking better reflects the conditions associated with the proposed development, the following parking standards, may be used to provide off-street parking; and, if the applicant so demonstrates, an exception pursuant to N.J.A.C. 5:21-3.1 will be granted.
 - (1) One Bedroom Unit: 1.00 space/unit.

- (2) Two Bedroom Unit: 1.25 spaces/unit.
- (3) Three Bedroom Unit: 1.50 spaces/unit.
- 4. One curb cut is permitted for every 75 feet of lot frontage.
- 5. Bedroom distribution:
 - (a) One-Bedroom Unit: 85% minimum.
 - (b) Two-Bedroom Unit: 10% maximum.
 - (c) Three-Bedroom Unit: 5% maximum.
- d. Bulk regulations for Conditional Permitted Uses: Bulk regulations for conditional uses shall be those set forth in Section 28-9.

§ 28-4.9 District Regulations for C Commercial Zone.

- a. Use Regulations:
 - 1. Permitted Principal Uses:
 - (a) Retail establishments.
 - (b) Service establishments.
 - (c) Professional offices.
 - (d) Public and quasi-public offices and facilities.
 - (e) Restaurants.
 - ()
 - (g) Multifamily residence above permitted uses listed in section (a)(1)(a) through (e) located on the first story.
 - 2. Permitted Accessory Uses:
 - (a) Off-street parking or private 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.
 - (d) Mid-rise residential buildings.
 - (e) Cannabis manufacturers and cannabis retailers.
- b. Bulk Regulations:
 - 1. Permitted Principal Use Standards:
 - (a) Minimum lot size: 2,500 square feet.
 - (b) Minimum lot width: 25 feet.
 - (c) Minimum lot depth: 100 feet.
 - (d) Minimum front yard setback: Existing average.
 - (e) Minimum side yard setback: 0 feet.
 - (f) Minimum rear yard setback: 10 feet.
 - (g) Maximum building height: five stories/55 feet.
 - (h) Maximum building coverage: 90%.
 - 2. Permitted conditional use standards: Bulk regulations for conditional uses shall be those set forth in Section 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 uses: Marina.
 - 3. Permitted conditional uses: None.
- b. Other Regulations: Site plan subject to Planning Board approval.

§ 28-5 SUPPLEMENTARY REGULATIONS.

§ 28-5.1 General.

In addition to the above Schedule of District Regulations, the following regulations of general applicability are herein voted and made part of this chapter.

§ 28-5.2 Exclusions.

The omission of any use or type of use from the Schedule shall be deemed to be an exclusion thereof from all districts.

§ 28-5.3 Home Occupations.

Home occupations shall be permitted provided that:

- a. Such occupation is incidental to the residential use of the premises and is carried on in the main residential building by a resident on the premises without nonresident assistants.
- b. Such occupation is carried on in an area not more than 25% of the dwelling.
- c. Any display of goods or signs identifying such occupation shall be prohibited, except as provided in section 28-7.2.
- d. Such occupation generally does not generate truck delivery or pickup activities as part of the operation.

§ 28-5.4 Professional Offices.

An office for a licensed professional in the fields of law, medicine, dentistry, architecture, engineering or other similar occupations shall be permitted as an accessory use to any dwelling unit provided that:

- a. Such office is incidental to the residential use of the premises, is carried on in the main building, and that the office space does not exceed 45% of the total floor area of the dwelling unit.
- b. There shall be not more than one sign for each such professional office and the sign shall not exceed one square foot.

§ 28-5.5 Access to Street.

In order to facilitate the orderly arrangement of streets, no permit shall be issued for the erection of a building on any lot unless such lot abuts either an existing public street, or a street shown on a recorded subdivision plat or delineated in the comprehensive Master Plan of the Town.

§ 28-5.6 Fences and Walls.

Fences or walls not to exceed six feet in height shall be permitted along the rear and side lot lines, but not forward of a required front yard setback. No fence or wall along the front lot line shall be permitted.

§ 28-5.7 (Reserved)

§ 28-5.8 Swimming Pools.

Private swimming pools shall be a permitted accessory use in any district and shall comply with the following conditions and requirements:

- a. The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- b. It may not be located, including any walks, or paved areas or accessory buildings adjacent thereto, closer than five feet to any property line on which located.
- c. For excavated swimming pools, the entire property on which the swimming pool is located shall be so walled or fenced so as to prevent uncontrolled access by children from the street or from adjacent properties. The fence or wall to be not less than four feet in height and maintained in good condition. When a fence is used, it shall not have any openings greater than four inches by six inches, except for approved gates; and when the fence is formed of metal or wire, such metal or wire shall not be less than number nine gauge.

§ 28-5.9 Sex Shops.

Sex shops (as defined in section 28-2.2) where not expressly prohibited by proper authority shall not be permitted:

- a. In any residential zone.
- b. In any other zone within 500 feet of the following:
 1. Places of worship or schools.
 2. Commercial enterprises catering primarily to children under 18 years of age.
 3. Any tavern, restaurant, or bar.
 4. Any other sex shop.

The distance shall be taken between the centers of the subject use areas measured in a straight line.

§ 28-5.10 (Reserved)

§ 28-5.11 (Reserved)

§ 28-5.12 (Reserved)

§ 28-5.13 Drainage of Lots.

No building shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, in any manner that will obstruct, interfere with or change the drainage of such land; taking into account land development that may take place in the vicinity under the provisions of this chapter, without providing adequate drainage in connection therewith.

§ 28-5.14 Front Yards.

a. Front Yard Requirements. No building shall be erected or shall be reconstructed or altered so as to project in any way beyond the average setback line observed by the buildings existing on the same side of the street within the block at the time of the passage of this chapter.

b. Variance of Front Yard Requirements. When a vacant lot is situated between two improved lots, each having a principal building within 25 feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the such adjoining improved lots, provided, however, that where any lot shall front on a right-of-way which is proposed, on the Official Map of the Town, to be widened, the front yard of such lot shall be as required in the district where such lot is located and shall be measured from such proposed future right-of-way.

§ 28-5.15 Variance of Side Yard Width.

Where a side lot line is irregular, the average width of the side yard shall not be less than the required minimum width, provided that such side yard shall not be narrower at any point than 1/2 the required minimum width.

§ 28-5.16 Corner Lots.

a. Side Yard Requirements of a Corner Lot. The side street setback line of any corner lot plotted on the Town's tax maps as the lot existed at the time of adoption of this chapter or any corner lot shown on any subdivision plat which received final approval prior to the adoption of this chapter shall not be less than 1/2 of the depth of the minimum front yard required on any adjoining lot; however, a lot delineated by subdivision after the adoption of this chapter shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on a side street.

b. Visual Obstruction of Corner Lots. On every corner lot in every district there shall be no obstruction to vision within a triangle formed by the street lines of such lot and a line drawn between points on such street lines at a distance of 10 feet from the point of intersection thereof.

§ 28-5.17 (Reserved)

§ 28-5.18 Through Lots.

Where a lot extends from a public right-of-way to an alley or another public right-of-way, the widest public right-of-way shall be deemed the public right-of-way upon which the property fronts.

§ 28-5.19 Location of Accessory Uses in Residence Districts.

The following yard regulations shall apply to accessory uses or buildings in all residential districts:

a. An accessory use or structure attached to a principal building shall comply in all respects with the yard requirements for such principal building.

b. An accessory use or structure not attached to a principal building shall comply with the following requirements.

1. No accessory use shall be located in a required front yard.

2. No accessory building or structure shall be located closer than 10 feet from a principal building.

3. An accessory use or uses may occupy part of the area of a required rear yard, with a maximum permitted height of 15 feet.
4. The side or rear yard for a detached accessory use shall be 1/2 of the required side yard for a principal building in the district in which it is located, but in no case less than three feet, unless otherwise specified in this chapter.
5. On an interior lot that runs through a block and faces on two streets, an accessory use in a rear yard shall conform to the average setback of buildings on the two adjacent lots.
6. On a corner lot, an accessory building or structure shall observe the same requirements as a principal building, except that when a rear lot line of a corner lot forms part of the side lot of an adjacent lot, an accessory use shall be located not less than three feet from such lot line, and shall observe the setback line of the principal building on the adjacent lot.

§ 28-5.20 Cannabis Establishments, Distributors and Delivery Services Prohibited.

- a. Except to the extent that cannabis manufacturers and cannabis retailers are permitted by section 28-4.9(a)(3)(d), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Town and shall also be considered prohibited uses for all purposes under this chapter, and for purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., in all zones, districts and areas of the Town, except for the delivery of cannabis items and related supplies by a licensed cannabis delivery service based and initiated from a cannabis delivery service licensed location outside of the Town.

§ 28-5.21 Rock Removal Plan

Where a cellar, basement, or below-grade parking is proposed for any building, a preliminary rock evaluation shall be required to address the presence/absence of bedrock/rock within the area of excavation. The report shall present an informed strategy for means and methods of removal for that specific rock and an impact statement on the adjacent properties.

§ 28-5.22 Automotive Repair Garage

Automotive repair garages shall be prohibited uses in all Zone Districts throughout the Town.

§ 28-5.23 Smoke Shops and Vape Shops

Smoke shops and vape shops are expressly prohibited as uses in all zone districts within the Town.

§ 28-5.24 Sale of Dogs and Cats

The commercial sale of dogs and cats is expressly prohibited in all zone districts within the Town.

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

In all districts, in connection with every use therein, there shall be provided, at the time any structure is erected, enlarged, or increased in capacity, off-street parking and loading space and access thereto in accordance with the requirements set forth below.

§ 28-6.1 General.

Required area and dimensions for off-street parking and loading spaces shall be calculated on the following basis:

- a. Each off-street parking space shall have a minimum area of 190 square feet, exclusive of aisles or driveways.
- b. Each off-street loading space shall have a minimum area of 350 square feet, exclusive of access roads with a minimum width of ten (10) feet and a clear height of 14 feet.

§ 28-6.2 Location.

- a. General. Any off-street parking space and any off-street loading space required by this chapter shall be provided on the same lot as the use to which it is appurtenant and shall comply with the regulations for the location of accessory uses and structures as described above.
- b. In R Districts, the required off-street parking space for more than two vehicles may not be located in a required front yard. On a corner lot, this restriction shall also apply to the space between the side street right-of-way line and the side building line.
- c. In the C District, required off-street loading spaces may occupy all or part of a required rear yard, except when abutting a residence district, where a buffer strip is to be maintained as provided in section 28-5.7(f).
- d. Off-site Parking in a Commercial District. Where there are practical difficulties in the way of the location of parking space or if the public safety or the public convenience or both would be better served by the location of such parking space other than on the same lot with the use to which it is appurtenant, the Board of Adjustment on specific application may authorize such alternative required parking space as will adequately serve the public interest, under the procedures for special permit uses, as described in this chapter.
- e. Joint facilities for parking or loading. The Planning Board on specific application may authorize such joint use of off-street parking or loading facilities for uses on the same or adjoining lots subject to the procedures for special permit uses as described in this chapter.
- f. Places of Worship and Schools. The required off-street parking shall be located on the same lot as the place of worship or school, or within 100 feet of the place of worship or school. All off-street parking shall be located within the Town of Guttenberg. Any off-site parking shall be accompanied by a fully executed lease agreement.

§ 28-6.3 Access.

- a. All off-street parking space and off-street loading space shall be provided with safe and convenient access to a street. Access drives or driveways shall not be less than ten (10) feet in width. If such space is located contiguous to a street, the street side thereof shall be curbed and ingress and egress shall be provided only through driveway openings through the curb not exceeding twenty-five (25) feet in width and located and constructed in accordance with specifications prescribed by the Enforcing Officer.
- b. No access drive or driveway in any R District shall be used to provide access to uses other than those permitted in such R Districts.

§ 28-6.4 Development and Maintenance.

- a. Any public or private parking or loading area for three or more vehicles, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements. Plans for such areas shall be reviewed by the Enforcing Officer to insure compliance with these regulations.
- b. Screening and Landscaping. Off-street parking areas for three or more vehicles and off-street loading areas shall be effectively screened as provided in section 28-5.6. The screening shall be on the side or sides which adjoin or face premises situated in any Residential District, or institutional premises.
- c. Minimum Distances and Setbacks. No off-street loading area or parking area or part thereof for three or more vehicles shall be closer than ten (10) feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot.
- d. Surfacing. Any off-street parking area or off-street loading area for three or more vehicles shall be surfaced with an asphalt or Portland cement concrete pavement or similar durable dustless surface. All areas shall be marked so as to provide for the orderly and safe loading, parking and storage of motor vehicles.
- e. Lighting.
 1. Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to reflect the light away from adjoining premises.
 2. Off-street parking facilities for multifamily structures containing three or more families and off-street parking facilities for all commercial and industrial uses shall be adequately lighted.
- f. Drainage. Any off-street parking area and off-street loading area shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.

§ 28-6.5 Off-Street Parking Requirements.

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

	Uses	Required Parking Spaces
1.	Bowling alleys, swimming pools, dance halls, roller rinks, etc.	5 for each 500 square feet of floor area or of water areas in swimming pools.
2.	Places of worship, schools, and nursery schools [Ord. No. 32-2016]	1 space/3 seats. 1 space/36 linear inches of bench/pew. 1 space/20 square feet of floor area without designated seating.
3.	Community buildings and social halls	1 for each 300 square feet of floor area.
4.	Dwellings	1 for each family or dwelling unit excepting that 1 for each 2 dwelling units shall be provided for units designed exclusively for elderly persons.
5.	Funeral homes, mortuaries	5 for each parlor, plus 1 for each employee.
6.	Hospitals, nursing, and convalescing homes	1 for each 3 beds, plus 1 for each employee.
7.	Rooming houses and dormitories	1 for each bedroom.
8.	Manufacturing plants, research or testing laboratories, bottling plants	1 for each 1,500 square feet of floor area, plus 1 for each 4 employees in a maximum working shift. The total parking area shall not be less than 25% of the building floor area.

9.	Medical or dental offices	5 spaces for each doctor or dentist.
10.	Hotels and Motels	1 space for each living or sleeping unit.
11.	Restaurants, beer parlors, and night clubs	1 for each 5 seats.
12.	Retail establishment and service establishment	1 for each 300 square feet of floor area.
13.	Banks or professional offices	1 for each 300 square feet of floor area.
14.	Sports arenas, auditoriums, theaters, assembly halls	1 for each 2.5 seats.
15.	Wholesale establishments or warehouses	1 for each 2 employees on maximum shift. The total parking area shall not be less than 25% of the building floor area.
16.	Philanthropic institutions, museums and commercial entertainment facilities	1 for each 300 square feet of gross floor area

Where a use is not specifically mentioned in this table, the requirements for similar uses shall apply. Where a specific off-street parking requirement for a particular use is set forth elsewhere in this Zoning Ordinance, those requirements shall apply.

b. In the C District, where no substantial change or changes in an existing structure are affected, notwithstanding the fact that there may be a change in the use of such structure, the off-street parking requirements of this ordinance shall not apply.

“Substantial change or changes,” for purposes of this amendment shall include but not be limited to, any change or changes which result in an increase in the commercial floor area to a number of square feet equal to or in excess of 125% of the square footage of the structure as it existed prior to the change or changes and/or any increase in the number of bedrooms in the structure from the number which existed prior to the change or changes.

Any portion of the Zoning Ordinance of the Town of Guttenberg which shall be inconsistent with this amendment is hereby modified to the minimum extent necessary to bring it into conformance with this amendment.

§ 28-6.6 Required Loading Spaces.

The number of off-street loading spaces required shall be as set forth in the following schedule. In the case of any use not specifically mentioned herein, the Planning Board shall determine the number of loading spaces required.

	Use	Square feet of Total Floor Area or Other Unit of Measurement	Minimum Required Off-Street Loading Berths
a.	Schools	For each 15,000 square feet	1
b.	Hospitals (In addition to space for ambulances)	For each 50 beds	3
c.	Undertaking establishments		1
d.	Offices, hotels, Commercial wholesale, industrial,	Under 20,000 square feet 20,000-50,000 square feet	1 2

	manufacturing, storage, and miscellaneous use	51,000-100,000 square feet For each additional 50,000 square feet or major fraction thereof	3 1
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28-6A ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT

§ 28-6A.1 Purpose

The purpose of this ordinance is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of EVSE and Make-Ready parking spaces through municipal parking regulations and other standards. EVSE and Make-Ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:

1. Provide adequate and convenient EVSE and Make-Ready parking spaces to serve the needs of the traveling public.
2. Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
3. Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
4. Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.

§ 28-6A.2 Definitions

CERTIFICATE OF OCCUPANCY

The certificate provided for in N.J.A.C. 5:23-2, indicating that the construction authorized by the construction permit has been completed in accordance with the construction permit, the act and the regulations. See "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and regulations adopted pursuant thereto.

CHARGING LEVEL

The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

1. Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.
2. Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.
3. Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

ELECTRIC_VEHICLE

Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.

ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT OR (EVSE)

The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."

MAKE-READY PARKING SPACE

The pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make Ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-Ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).

PRIVATE EVSE

EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).

PUBLICLY-ACCESSIBLE EVSE

EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).

§ 28-6A.3 Approvals and Permits

- a. An application for development submitted solely for the installation of EVSE or Make-Ready parking spaces shall be considered a permitted accessory use and permitted accessory building in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
- b. EVSE and Make-Ready Parking Spaces installed pursuant to Section D. below in development applications that are subject to site plan approval are considered a permitted accessory use as described in 1. above.
- c. All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- d. The Town Engineer shall enforce all signage and installation requirements described in this ordinance. Failure to meet the requirements in this ordinance shall be subject to the same enforcement and penalty provisions as other violations of the Town's land use regulations.
- e. An application for development for the installation of EVSE or Make-Ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to C.40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of

a zoning permit by the administrative officer, provided the application meets the following requirements:

1. the proposed installation does not violate bulk requirements applicable to the property or the conditions of the original final approval of the site plan or subsequent approvals for the existing gasoline service station, retail establishment, or other existing building;
 2. all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 3. the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- f. An application pursuant to Section 5. above shall be deemed complete if:
1. the application, including the permit fee and all necessary documentation, is determined to be complete,
 2. a notice of incompleteness is not provided within 20 days after the filing of the application, or
 3. a one-time written correction notice is not issued by the Town Construction and Zoning Officer within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.
- g. EVSE and Make-Ready parking spaces installed at a gasoline service station, an existing retail establishment, or any other existing building shall be subject to applicable local and/or Department of Community Affairs inspection requirements.
- h. A permitting application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on parking requirements.

§ 28-6A.4 Requirements for New Installation of EVSE and Make-Ready Parking Spaces

- a. As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
1. prepare as Make-Ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of Make-Ready parking spaces;
 2. within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of Make-Ready parking spaces; and
 3. within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of Make-Ready parking spaces.
4. Throughout the installation of EVSE in the Make-Ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
5. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
- b. As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
1. Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 2. Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.

3. Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
4. Install at least four Make-Ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
5. Install at least four percent of the total parking spaces as Make-Ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
6. In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
7. Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or Make-Ready parking spaces at a faster or more expansive rate than as required above.
8. Notwithstanding the provisions of this Section, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or Make-Ready parking spaces.

§ 28-6A.5 Minimum Parking Requirements

- a. All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to Section 28-6.
- b. A parking space prepared with EVSE or Make-Ready equipment shall count as at least two parking spaces for the purpose of complying with a minimum parking space requirement. This shall result in a reduction of no more than 10 percent of the total required parking.
- c. All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- d. Additional installation of EVSE and Make-Ready parking spaces above what is required in Section D. above may be encouraged, but shall not be required in development projects.

28-7A.6 Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

- a. Location and layout of EVSE and Make-Ready parking spaces is expected to vary based on the design and use of the primary parking area. It is expected flexibility will be required to provide the most convenient and functional service to users. Standards and criteria should be considered guidelines and flexibility should be allowed when alternatives can better achieve objectives for provision of this service.
- b. Installation:
 1. Installation of EVSE and Make-Ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
 2. Each EVSE or Make-Ready parking space that is not accessible for people with disabilities shall be not less than 9 feet wide or 18 feet in length. Exceptions may be made for existing parking spaces or parking spaces that were part of an application that received prior site plan approval.
 3. To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and Make Ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
 4. Each EVSE or Make-Ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- c. EVSE Parking:

1. Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.

2. Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.

3. Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of this Municipal Code or {Section _____}. Signage indicating the penalties for violations shall comply with Section 5. below. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.

4. Private Parking. The use of EVSE shall be monitored by the property owner or designee.

e. Safety

1. Each publicly-accessible EVSE shall be located at a parking space that is designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Section 5. below.

2. Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Town's ordinances and regulations.

3. Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.

4. EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.

5. Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.

6. Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.

7. Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the Town shall require the owners/designee of publicly-accessible EVSE to provide information on the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

e. Signs

1. Publicly-accessible EVSE shall have posted regulatory signs, as identified in this section, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
2. All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.
3. Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with b. above.
4. In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all publicly-accessible EVSE parking spaces:
 - (a) Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - (b) Usage fees and parking fees, if applicable; and
 - (c) Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- f. Usage Fees
 1. For publicly-accessible municipal EVSE: In addition to any parking fees, the fee to use parking spaces within the municipality identified as EVSE spaces shall be established by the Town Council for each hour that the electric vehicle is connected to the EVSE. Which fee may be altered or amended by resolution of the Town Council at any time.
 2. Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.

§ 28-7 SIGNS.

§ 28-7.1 General.

All signs shall be considered an accessory use and, unless otherwise specified in this chapter, the construction, alteration, erection, maintenance and location of signs and outdoor displays, shall be governed by the provisions of the Building Code of Guttenberg.

§ 28-7.2 Signs in Residence Districts.

a. General.

1. Every sign in an R District shall either (a) be placed flat against a building, projecting not more than six inches therefrom, on the front thereof, and not extending above the actual height thereof, or (b) be located completely apart from a building, directly in front thereof, at a distance of not less than fifteen (15) feet from the front lot line, and not exceeding five (5) feet in height.
2. No sign in an R District shall be illuminated by other than indirect lighting, with the source thereof so shielded that it illuminates only the face of the sign.

- b. The following types of signs are permitted in all residence districts.
 1. Nameplates and Identification Signs.
 - (a) Signs indicating the name or address of the occupant, or a permitted home occupation or profession, provided that they shall not exceed one square foot in area.
 - (b) Only one sign shall be permitted per dwelling unit except in the case of corner lots where two such signs, one facing each street, shall be permitted.
 - (c) For multiple dwelling structures, a single identification sign not exceeding six square feet in area.
 2. Sales or Rental or Development Signs.
 - (a) Signs advertising the sale or rental of the premises upon which they are located, provided they shall not exceed six square feet in area for one and two-family houses and twenty (20) square feet in area for other structures.
 - (b) Not more than one such sign may be erected per building.
 - (c) Not more than one such sign may be placed upon any property unless such property fronts upon more than one street, in which case two signs may be erected, one facing each street.
 - (d) Such signs shall be promptly removed when premises are sold or rented.
 3. Institutional Signs.
 - (a) Signs of schools, churches, hospitals, clubs, hotels or other institutions of a similar public or semipublic nature, provided the size of any sign shall not exceed twenty (20) square feet in area.
 - (b) Not more than one such sign shall be permitted for an institution, unless the property fronts upon more than one street, in which event two such signs may be erected, one facing each other.
 4. Signs Accessory to Parking Areas.
 - (a) Signs designating entrances or exits to or from a parking area, provided the size of any sign shall not exceed two square feet in area.
 - (b) Signs designating the identity and conditions of use of parking areas, provided the size of any such sign shall not exceed nine square feet in area. Not more than one sign may be placed upon any property unless such property is located on a corner, in which event two such signs may be permitted, one facing each street.
 5. Artisan's Signs.
 - (a) Signs of mechanics, painters and other artisans may be erected and maintained during the period in which such persons are performing work on the premises, provided that the size of any such sign shall not exceed twelve (12) square feet in area.
 - (b) Such signs shall be removed promptly upon completion of the work.
 6. Private Driveways.
 - (a) Signs indicating the private nature of a driveway provided, that the size of any such sign shall not exceed two (2) square feet.
 7. Construction Signs.
 - (a) During the construction, alteration, or renovation of any building, in any zone, temporary construction signs providing the name or names of the contractors, subcontractors, architects or professionals employed in such construction and the construction, alteration, or renovation project, shall be permitted.
 - (b) Construction Signs may display information and/or depictions regarding a proposed development, including the names of individuals, organizations, or businesses involved in the design, construction, or financing of a project, during the construction period.
 - (c) No Construction Sign shall be of a type prohibited under section 28-7.4 herein unless otherwise exempt. Construction Signs shall not exceed four feet by eight feet and shall be removed within seven (7) days after completion of the construction work. Not more than one such sign may be placed upon

any property unless such property fronts upon more than one street, in which case two signs may be erected, one facing each street.

§ 28-7.3 Signs in Commercial Districts.

- a. All signs permitted in residence districts as described in section 28-7.2 shall be permitted in commercial districts subject to the same regulations.
- b. Business signs are permitted in accordance with the following regulations:
 1. Size of Signs. The surface area of all business signs on a single lot shall aggregate to no more than two square feet of sign area per front foot, with a maximum of total area of 100 square feet.
 2. Projection of Signs. No sign shall project into or over the right-of-way of any street.
 3. Height of Signs. No sign shall extend higher than the maximum permitted height of principal structures in the district in which the sign is located.
 4. Clearance. No hanging or suspended sign shall be erected or maintained less than fifteen (15) feet above grade.

§ 28-7.4 Types of Signs Prohibited.

- a. Any sign of which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere.
- b. Any sign displaying flashing or intermittent lights, or lights of changing degrees of intensity.
- c. Any illuminated tubing or strings of lights outlining roof lines, door, windows, or wall edges of any building.
- d. Any sign that obscures a sign displayed by public authority for the purpose of giving traffic instructions or directions or other information.
- e. Any sign that uses the word “stop” or “danger” or otherwise presents or implies the need or requirement of stopping or caution or the existence of danger, or which is a copy or imitation of, or which for any reason is likely to be confused with any sign displayed by a public authority.
- f. Any sign within the area of vision clearance at the street corner of a corner lot.
- g. Any sign that causes any direct glare into or upon any dwelling.
- h. Any portable sign, including any sign displayed on a vehicle when used primarily for the purpose of such display.
- i. Advertising sign. Construction signs are exempt from this restriction.
- j. Any “sign” structure or use that uses sound to advertise or identify the premises, owner or use in any manner.
- k. Banner. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended with a rope, wire, or string from the outside of a commercial building. Construction signs are exempt from this restriction.
- l. Billboards.

§ 28-8 PERFORMANCE STANDARDS.

All proposed uses shall provide documentation to the satisfaction of the Enforcing Officer that the proposed use will be in conformance with the performance standards listed herein. In the case of a structure being built for future lease, in whole or in part, the Enforcing Officer shall waive this documentation for purposes of issuing a Building Permit if all other applicable requirements are met, but shall not issue a Certificate of Compliance or a Certificate of Occupancy until such time as all

requirements with respect to a particular occupant and/or use are met. In the event that any use fails to meet the performance standards after a Certificate of Compliance or Occupancy is issued, the Enforcing Officer may, after proper notice, require that the use be terminated within 60 days unless the condition can be corrected to satisfactorily meet the performance standards listed herewith:

- a. Airborne Particles. Smoke, Dust, Dirt, and Fly Ash shall not exceed the limits set by State and local Air Pollution Codes.
- b. Odor. The emission of obnoxious odors of any kind shall not be permitted.
- c. Gases. No gas shall be emitted which is deleterious to the public health or safety.
- d. Glare. Arc welding, acetylene torch cutting or similar processes that produce glare shall be performed within an enclosed building or shall be screened from view from any point beyond the property line.
- e. Vibration. No use shall cause earth vibrations or concussions detectable beyond its property lines, without the aid of instruments, with the exception of that vibration produced as a result of constructional activity.
- f. Fire and Safety Hazard. The storage of crude oil or any of its volatile products or other highly inflammable liquids in aboveground tanks shall be in accordance with local and State regulations. The permitted manufacture or storage of explosive or poisonous gases shall be in accordance with local and State regulations.
The storage, baling or treatment of rags, wastes, scrap paper or similar materials shall be in an enclosed masonry building, no part of which may be located closer than 50 feet from any property line.
- g. Sewage Waste. Liquid wastes and effluents shall be discharged into an approved existing sewage treatment plant in accordance with the regulations of that system or shall be treated in a treatment plant operated by the permitted use which is in compliance with applicable State and local requirements.
- h. Open Storage.
 1. Other than junk and/or scrap and auto wrecking yards, all open storage shall be located within an area not closer than 50 feet from any street right-of-way line and shall be enclosed with a greenbelt planting strip, or other approved screening, not less than eight feet in width, and not less than eight feet in height, to normally screen view of stock piles. The storage of lumber, coal or other combustible material shall not be less than 20 feet from any interior lot line, and a roadway shall be provided, graded, surfaced and maintained from the street into the property to permit free access of fire trucks at any time.
 2. Junk and/or scrap and auto wrecking yards shall be permitted only when enclosed within a fence not less than six (6) feet in height, not less than fifty (50) feet from any street or right-of-way line, and fronted with an evergreen planting strip to attain not less than eight feet in height to screen yard from outside view.
- i. Noise. At no point on or beyond the boundary of any lot shall the sound pressure level resulting from any use or activity, whether open or enclosed, (except noise not directly under control of the property user, no noises resulting from the construction and maintenance of buildings and facilities including site preparation, and the noises of safety signals, warning devices, railroads, the automobile traffic) exceed the minimum permitted decibel levels for the designated octave band as set forth below:

Octave Band, Frequency in Cycles per Second	Sound Pressure Level in Decibels
0 to 74	73
75 to 149	68
150 to 299	60
300 to 599	53
600 to 1,199	47

1,200 to 2,399	41
2,400 to 4,799	35
4,800 and over	33

j. Topography. The topography of any parcel shall remain substantially unaltered by development of any type unless same is approved by the Planning Board and further approved by the Board Engineer, and in those cases where it has jurisdiction, by the New Jersey Department of Environmental Protection.

k. Liquid or Solid Waste. There shall be no discharge of any kind of waste into a reservoir or river. The discharge of untreated waste into any body of water is prohibited. All methods of industrial waste treatment shall be approved by the appropriate County Health Agency. Effluent from treatment plants shall at all times comply with the following standards:

1. Maximum five-day biochemical oxygen demand: Five parts per million.
2. Maximum quantity of effluent: 10% of minimum daily stream or river flow.
3. Maximum five-day biochemical oxygen demand after dilution (B.O.D. of effluent multiplied by quantity of effluent divided by quantity of stream flow): 0.25 parts per million.
4. Maximum phenol: 0.01 parts per million.

No effluent shall contain other acids, oils, dust, toxic metals, corrosive or other toxic substance in solution or suspension which would create odors, discoloration, poison or otherwise pollute the stream or river in any way.

§ 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.

All conditional uses shall comply with the principal permitted use bulk requirements except to the extent expressly superseded by the following standards.

§ 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.

§ 28-9.3 Standards Applicable to Particular Conditional Uses.

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

1. Minimum lot area: 20,000 square feet.

2. Minimum frontage: 100 feet.
3. Maximum coverage: 50%.
4. Usable Open Space. A minimum of 100 square feet of usable open space shall be provided for each inhabitant, patient or student of a use providing permanent or temporary living quarters, up to 50% coverage.
5. No required parking shall be permitted within five feet of any side or rear lot line.
- b. Nursery School.
 1. Minimum lot area: 5,000 square feet.
 2. A minimum of 50 square feet of usable open space shall be provided for each student, up to 50% coverage standard.
- c. Multifamily Mid-Rise Residential.
 1. Bulk Regulations.

[Amended 10-26-2020 by Ord. No. 26-20]

 - (a) On lots of 20,000 square feet or greater.
 - (1) Minimum lot area: 20,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum lot depth: 200 feet.
 - (4) Minimum front yard setback: 10 feet.
 - (5) Minimum side yard setback: 3 feet on both sides.
 - (6) Minimum rear yard setback: five feet.
 - (7) Maximum building height: eight stories and 90 feet exclusive of roof appurtenances.
 - (8) Maximum impervious surface coverage inclusive of building coverage: 90%.
 - (9) Minimum open space: 10%.
 - (b) On lots between 5,000 and 7,499 square feet in area.
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot width: 50 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum front yard setback: five feet.
 - (5) Minimum side yard setback: three feet, one inch on one side.
 - (6) Minimum rear yard setback: five feet.
 - (7) Maximum building height: four stories and 50 feet.
 - (8) Maximum impervious surface coverage: 90%.
 - (9) Minimum open space: 10%.
 - (c) On lots between 7,500 and 9,999 square feet in area.
 - (1) Minimum lot area: 7,500 square feet.
 - (2) Minimum lot width: 75 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum front yard setback: five feet.
 - (5) Minimum side yard setback: three feet, one inch on one side, or 5 feet combined both sides.
 - (6) Minimum rear yard setback: five feet.
 - (7) Maximum building height: five stories and 60 feet.
 - (8) Maximum impervious surface coverage: 90%.
 - (9) Minimum open space: 10%.
 - (d) On lots between 10,000 and 19,999 square feet in area.
 - (1) Minimum lot area: 10,000 square feet.
 - (2) Minimum lot width: 100 feet.
 - (3) Minimum lot depth: 100 feet.
 - (4) Minimum front yard setback: five feet.

(5) Minimum side yard setback: three feet, one inch on one side, and five feet combined.

(6) Minimum rear yard setback: five feet.

(7) Maximum building height: six stories and 70 feet.

(8) Maximum impervious surface coverage: 90%.

(9) Minimum open space: 10%.

2. Additional Regulations:

(a) Minimum parking structure setbacks: Parking structures shall comply with the yard requirements for principal buildings.

(b) Exposed parking areas under the building are prohibited. Parking within the building shall be screened with appropriate architectural detail material. The architectural detailing for parking areas shall be similar or complimentary to the materials used on the remainder of the building.

(c) Off-street parking shall be provided as follows:

(1) Parking spaces shall be dedicated to the respective residential units as part of any lease or deed, and to the extent that the total number of parking spaces for any development exceeds the ratio of one space per residential unit then at least one space shall be designated for each residential unit. Such dedication shall be included as part of the lease/rental agreement or deed, and shall not require a separate fee, charge or payment from the owner/tenant/lessee/occupant. Parking spaces not used by the occupancy of a dwelling unit may be leased to non-residents of the dwelling on a month-to-month basis, provided that if a new occupant of the dwelling unit has need of a parking space, such lease to a non-resident tenant shall be terminated, and provided adequate security measures are in place for the protection of occupants of the building.

(2) Table 4.4 of N.J.A.C. 5:21 of the New Jersey Administrative Code, entitled Residential Site Improvement Standards governs the required off-street parking for all residential development in the Town of Guttenberg. However, N.J.A.C. 5:21-4.14(c) permits alternate parking standards if the applicant can demonstrate these standards better reflect local conditions. Factors affecting minimum number of parking spaces include household characteristics, availability of mass transit, urban versus suburban location and available off-site parking resources. If the applicant can demonstrate that reduced off-street parking better reflects the conditions associated with the proposed development, the following parking standards, may be used to provide off-street parking; and, if the applicant so demonstrates, an exception pursuant to N.J.A.C. 5:21-3.1 will be granted.

(a) One Bedroom Unit: 1.00 space/unit.

(b) Two Bedroom Unit: 1.25 spaces/unit.

(c) Three Bedroom Unit: 1.50 spaces/unit.

(d) One curb cut is permitted for every 75 feet of lot frontage.

(e) Bedroom distribution:

(1) One-bedroom units: 85% minimum.

(2) Two-bedroom units: 10% maximum.

(3) Three-bedroom unit: 5% maximum.

d. Attached and semi-attached dwellings.

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: five feet.

5. Minimum rear yard: 25 feet.

6. Maximum building height: three stories/35 feet.
7. Maximum building coverage: 60%.
- e. Public Utility Installations.
 1. Public utility installations shall include facilities and services related to the distribution and transmission of communications, electricity, gas and water and the collection and treatment of sewage.
 2. No facility or use related to public utility service shall be permitted in a residence district unless the Planning Board finds, with a statement of reasons for such findings, that the location proposed is necessary for the rendering of efficient service by such facility.
 3. In a residence district, no land or buildings related to a public utility service subject to the provisions of this chapter shall be used for the storage of materials or equipment, for the repair or servicing of vehicles or equipment or for the parking of vehicles, except as an accessory use necessary for the proper operation of the services to which it may be appurtenant.
 4. Such installations shall be operated in accordance with the performance standards previously set forth in Section 28-8.
 5. A buffer strip with adequate fences, landscaping and other safety devices shall be provided as previously set forth in section 28-5.7.
- 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 1/2 acre plus 1/2 acre for every 75 pupils for whom the school is designed.
 3. Land coverage of the sum of the principal building plus accessory buildings shall not exceed 30% 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.
- g. Places of Worship. Notwithstanding any other provisions contained in this chapter, incorporated places of worship shall be permitted provided that:
 1. A place of worship may be erected to a height of 75 feet, provided that the number of stories at any point along the perimeter of such building shall not exceed three and no building or part thereof shall be erected nearer than a distance equal to three times the height of such building to any property line other than a street line.
 2. Land coverage of the sum of the principal building plus accessory buildings shall not exceed 50% of the area of the lot.
 3. Each place of worship shall be permitted to maintain an exterior bulletin board with an area of not more than six square feet.
- h. Off-Site or Joint Parking. Site Plan approval shall be required.
- i. Detached one- and two-family dwellings. Where permitted as a conditional use, one- and two-family dwellings shall conform to the permitted principal bulk standards applicable in the R-1 Zone.
- j. Cannabis Manufacturers and Cannabis Retailers.
 1. Cannabis manufacturers and cannabis retailers shall be conditionally permitted uses in the Commercial Zone only and shall comply with the bulk requirements of the Commercial Zone defined by § 29-4.9(b)(1) of the Town Code.
 2. There shall be only two (2) cannabis retailers in the Town. No more than one (1) cannabis retailer shall be permitted in the Commercial Zone fronting on Bergenline Avenue, and no more than one cannabis retailer shall be permitted in the Commercial Zone fronting on Park Avenue.
 3. A cannabis manufacturer shall be permitted only as an accessory use to a cannabis retailer.

4. Any cannabis manufacturer and cannabis retailer in the Commercial Zone is permitted only with all approvals required by Chapter 32 of the Town Code (Ord. 04-26), New Jersey P.L. 2021, c. 16 (C. 24:6I-31 et seq.), and all other applicable New Jersey State statutes and regulations. Any cannabis manufacturer and cannabis retailer that does not hold a valid, current Town Cannabis License pursuant to Chapter 32 of the Town Code (Ord. 04-26) and all appropriate State licenses shall not be permitted in the Commercial Zone, even if previously approved by the Planning Board. Violation of this condition shall invalidate any land use approval and render the use unlawful.

5. Any cannabis manufacturer and cannabis retailer shall comply with all other Town Ordinances and all other local and State statutes and regulations applicable to the operation of such businesses.

§ 28-9.4(Reserved)

§ 28-9.5(Reserved)

§ 28-9.6(Reserved)

§ 28-10through § 28-13. (Reserved)

§ 28-14 NONCONFORMING USES AND BUILDINGS.

§ 28-14.1 Statement of Intent.

a. The zoning districts established by this chapter are designed to guide the future use of land in the Town, encouraging the development and preservation of desirable residential and commercial areas, with appropriate groupings of compatible and related uses, to the end of promoting and protecting the public health, safety, comfort, prosperity and other aspects of the general welfare.

To achieve this end, lawful existing uses which would be prohibited or restricted under the terms of this chapter or future amendments, and which do not conform to the character and regulations of the zoning district in which they are located, must be subject to certain regulations.

b. To avoid such hardship nonconforming uses of land, buildings, and structures shall be permitted to remain. The purpose of this regulation in nonconforming uses which are not appropriate in their location is to restrict further investment in such uses. Exceptions shall be made in those instances where extensive investment is involved to avoid any unnecessary hardships in the use of such facilities.

c. To eliminate any undue hardship, nothing in this chapter shall be deemed to require any change in plans, specifications, construction or intended use of any building or structure for which plans, specifications, contract negotiations, or construction started, prior to the effective date of this chapter or amendments thereof.

§ 28-14.2 Continuation of Use.

a. A use, building or structure which shall be made nonconforming, as defined in section 28-2.2, at the time of passage of this chapter, or any applicable amendment thereto, may be continued except as otherwise set forth in this section.

b. The provision regarding nonconformity shall apply only to a use, building or structure legally established or erected, but not to any use established or building or structure erected in violation of law, regardless of the time of establishment or erection.

§ 28-14.3 Regulation of Nonconforming Uses.

An existing nonconforming use, building or structure cannot be altered, reconstructed, substituted or restored or repaired, unless required to do so by law or order and as follows:

- a. Repairs and Maintenance. Normal maintenance repairs and incidental alteration of a building or the structure containing a nonconforming use is permitted, provided it does not extend or expand the area or volume of space occupied by the nonconforming use, or change the functional use of the building or structure.
- b. Restoration. When a nonconforming building or structure is destroyed, or partially destroyed, by fire, explosion or other disaster, or is otherwise damaged to the extent of 50% of the appraised replacement value of such building or structure, it shall not be restored or rebuilt, except in such manner as to conform to the regulations of this chapter and amendments thereto. When a nonconforming building or structure is partially destroyed by fire, explosion or other disaster to less than 50% of its appraised replacement value, it may be restored to its original use in accordance with provisions of this chapter but must be restored within one year of such happening.
- c. Abandonment or Discontinued Use. A nonconforming use shall be considered abandoned or discontinued:
 1. If it is terminated by the owner;
 2. If the structure or land or both is discontinued or abandoned for twelve (12) consecutive months.
- d. Sale. Any nonconforming use, structure or lot may change ownership and continue to function as the same nonconforming use, structure or lot provided that the appropriate provisions of this chapter are met.
- e. Construction Under Permit Granted Prior to Passage. Nothing herein contained shall require any change in plans, construction, or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within three months of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of such permit, and which entire building shall be completed according to such filed plans within one year from the effective date of this chapter.

§ 28-15 through § 28-17. (Reserved)

§ 28-18 ADMINISTRATION AND ENFORCEMENT.

§ 28-18.1 Enforcing Officer.

It shall be the duty of the Enforcing Officer to administer and enforce the provisions of this chapter. The Enforcing Officer shall be appointed by the governing body of Guttenberg. No Building Permit or Certificate of Occupancy shall be issued by the Enforcing Officer unless all the provisions of this chapter are met.

§ 28-18.2 Powers and Duties.

It shall be the duty of the Enforcing Officer to administer and enforce this chapter. No structure will be erected without a Building Permit and no structure or lot shall use or have its use changed so as to be in violation of this chapter. In no case shall a Building Permit be issued for the construction or alterations of any structure nor shall a Certificate of Occupancy be issued for a new occupant with a

new use, or new use by the present occupant, until the proposed construction or alteration or use conforms to the provisions of this chapter. It shall be the duty of the Enforcing Officer to cause any structures, plans or premises to be inspected or examined and order the owner, in writing, that any condition be remedied which is found to exist in violation of any provisions of this chapter. It shall be the duty of the Enforcing Officer to keep a record of all applications and all permits which are either issued or denied, with notations of any conditions involved, which data shall form a part of the public records. Specifically, the Enforcing Officer shall have the following duties and powers:

- a. Inform Applicants. The Enforcing Officer shall provide information for prospective applicants as to the type of form(s) to be filled, the information to be submitted, and explain the procedures for filing applications. Such information shall be offered as a public service and no charge shall be made for such service.
- b. Form of Applications, Permits and Certificates. The form of all applications, permits and certificates to be used by the Enforcing Officer under the terms of this chapter shall be prescribed by the municipality. The applications, permits and certificates may be combined with other applications, permits and certificates required by the Building Code.
- c. Receive Applications. He shall receive and examine all applications for permits, certificates and variances and other applications required under the terms of this chapter.
- d. Issue Permits. He shall issue permits for the construction, major alteration and occupancy of all uses which are in accord with the requirements of this chapter within 30 days of the receipt of the applications for such permit.
- e. Refuse Permits. He shall refuse applications for permits or certificates which are not in accord with the requirements of this chapter within 30 days of the receipt of such application. The refusal shall be in writing and shall state the reasons for such action. Duplicate copies of such refusals shall be forwarded to the Secretary of the Planning Board.
- f. Issue Notice of Violations. He shall make a written notice of violation and issue the same on the person violating any provisions of this chapter. The written notice shall set forth the action on the part of such persons or corporation that he deems to be in violation. Duplicate copies of said notice are to be referred to the Municipal Clerk and the Secretary of the Planning Board.
- g. Keep Records. He shall keep records of applications, or permits or certificates issued or denied, of variances granted, of inspections made, of reports rendered and of notice of orders issued.
- h. Annual Report. He shall submit an annual report to the governing body and the Planning Board on the number of applications made, of permits or certificates issued or denied, of variances granted, of inspections made or reports rendered, of notice of orders issued, and of any other information requested by the governing body or the Planning Board in the furtherance of their duties.
- i. Other Powers and Duties. He shall perform all other duties as may be provided or made necessary by the terms of this chapter.

§ 28-19 BUILDING PERMITS.

§ 28-19.1 Required.

No building or structure in any district shall be erected, enlarged or structurally altered without a Building Permit duly issued, upon application, by the Enforcing Officer. No Building Permit shall be issued by the Enforcing Officer except in conformance with the provisions of this chapter or unless he is directed to issue same under written order from the Planning Board in the form of a variance special permit or administrative review as provided by this chapter.

§ 28-19.2 Building Permit Applications.

All applications for Building Permits shall be in writing on forms provided by the Enforcing Officer. Applications shall be accompanied by plans, in duplicate, drawn to scale, and showing the following information:

- a. The actual shape and dimensions of the lot to be built upon.
- b. The exact size and location of all existing or proposed buildings, structures, signs, parking or loading areas.
- c. The existing and proposed use of each building or parts thereof, including number of families, dwelling units, employees, office or other units of occupancy.
- d. Plans for screenings and landscaping as may be required under provisions of this chapter.
- e. Any other information as may be necessary to determine compliance.

§ 28-19.3 Permits to be Shown.

Building Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform building operations of any kind unless a Building Permit covering such operation has been previously issued, and is being displayed as required by this chapter, nor shall they perform building operations of any kind after notification of the revocation of the permit.

§ 28-19.4 Denial of Building Permit.

If the Enforcing Officer determines that the application or plans as submitted fail to satisfy the requirements of this chapter, he shall refuse to issue a Building Permit. If a Building Permit is so denied, the Enforcing Officer shall promptly cause to be sent to the applicant a notice of the Officer's action, which shall specify, in writing, the grounds upon which the denial was made. The applicant then may apply to the Planning Board pursuant to N.J.S.A. 40:55D-72 and -70(a) for a reversal of the Enforcing Officer's refusal to issue a Building Permit.

§ 28-19.5 Special Use Permit.

If the Enforcing Officer makes a preliminary determination that a proposed use requires a special permit, he shall notify the applicant of any additional materials that may be required in order that the Planning Board may conduct its review of the proposal. Upon receipt of such material to complete the file, the Enforcing Officer shall transmit the application and supporting documents to the Planning Board.

§ 28-19.6 Revocation of Building Permits.

The Enforcing Officer may revoke a permit at any time if it appears that the application or accompanying plan is in any material respect false or misleading, or that work being done upon the premises differs materially from that called for in the application. In such a case, the person holding the permit shall immediately surrender it and all copies thereof to the Enforcing Officer. Before issuing a new permit, the Enforcing Officer may require the applicant to file an indemnity bond in favor of the municipality with sufficient surety conditioned for compliance with this chapter and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

§ 28-20 CERTIFICATE OF OCCUPANCY.

§ 28-20.1 Required.

No land shall be occupied or used and no building hereafter erected, altered, or extended, shall be occupied, used or changed in use, whether in whole or part until a Certificate of Occupancy shall have been issued by the Enforcing Officer. Such Certificate shall state that the structure or use complies with all the provisions of this chapter and all other applicable codes and ordinances of the Town pertaining to use.

§ 28-20.2 Application and Issuance of Certificate of Occupancy.

- a. Application for a Certificate of Occupancy shall be made in writing on a form furnished by the Enforcing Officer setting forth such information as the Enforcing Officer may require.
- b. A Certificate of Occupancy shall be issued within 10 days after the Enforcing Officer determines that the structure or use, as completed, is in full conformity with the provisions of this chapter and any other applicable codes and ordinances of the Town, including but not limited to: building codes, fire prevention codes, electrical codes, plumbing codes, sanitary codes and housing codes.
- c. The occupancy permit, once granted, shall continue in effect so long as there is no change of use.

§ 28-20.3 Records.

A record of all Certificates of Occupancy shall be kept in the Office of the Enforcing Officer and one copy shall be forwarded by the Enforcing Officer to the Town Assessor and additionally, to any Town agency or to any person having a proprietary or tenancy interest in the building or land affected.

§ 28-21 (Reserved)

§ 28-22 TEMPORARY USES.

§ 28-22.1 Authorization of Temporary Uses.

The Planning Board may, after due notice and public hearings, permit the temporary occupancy and use of a structure in any district for a purpose that does not conform with the regulations for that district. Such occupancy and use shall be subject to any reasonable conditions and safeguards which the Planning Board may impose to minimize any injurious effects upon the neighborhood or to protect contiguous property. Such approval and permit based thereon shall not be valid for more than 12 months.

§ 28-23 (Reserved)

§ 28-24 VARIANCES.

§ 28-24.1 Hardship Variance Procedure.

- a. The determination of the facts of the case shall indicate that the appropriate application was filed with the Enforcing Officer and was disapproved by him as not meeting the requirements of this chapter for the district in which located and the circumstances of ownership or other conditions that create the alleged hardship.
- b. The report and recommendations, if any, of the Planning Board shall be summarized.
- c. The findings shall include the following as a minimum:
 1. The special circumstances or conditions, as described, apply to the land or buildings concerned but do not apply generally to land or buildings in the neighborhood.
 2. The circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or buildings.
 3. For reasons set forth, the granting of a variance is the only means to provide for the reasonable use of the land or buildings.
 4. The variance as granted by the Planning Board is the minimum variance that will permit the reasonable use of the land or buildings.
 5. The relief afforded by the variance can be granted without substantial detriment to the intent and purpose of the Zoning Ordinance.

§ 28-24.2 Use Variance Procedure.

- a. The determination of the facts shall indicate that an appropriate application was submitted to the Enforcing Officer and was disapproved by him, the nature and extent of the proposed use, the special reasons as submitted to the Planning Board for consideration in support of the request to permit a use in a district from which it is otherwise excluded by this chapter.
- b. The report and recommendations, if any, of the Planning Board shall be summarized.
- c. The findings shall include the following as a minimum:
 1. The special reasons as set forth, apply to the particular property and do not apply generally in the neighborhood.
 2. The same general purposes cannot be accomplished by amendment of the Zoning Ordinance or the Zoning Map as provided for in this chapter.
 3. The use is one that is otherwise a legal use permitted elsewhere in the Town under the provisions of this chapter.
 4. The use will be compatible with the general character of the neighborhood.
 5. The use will not cause substantial injury to the value of property in the neighborhood.
 6. The use is so designed, located and proposed to be operated that the public health, safety and convenience will be protected.
 7. The variance, if granted, will not result in substantial detriment to the public good and will not impair the intent and purpose of the Comprehensive Development Plan or the Zoning Ordinance.

§ 28-25 APPEALS.

§ 28-25.1 Filing Procedure.

Appeals to the Planning Board pursuant to N.J.S.A. 40:55D-72 and -70(a) may be filed by any interested party affected by any decision of an administrative officer, board, or agency of the Town based on, or made in, the enforcement of the Zoning Ordinance or Zoning Map. Such appeal shall be made within twenty (20) days by filing a notice of appeal in writing with the officer from whom the appeal is taken specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately

transmit to the Planning Board all papers constituting the record upon which the action appealed from was taken.

§ 28-25.2 Information to Accompany Appeal.

An appeal shall be made in writing on the forms prescribed by the Planning Board. Each appeal shall cite the specific provisions of this chapter that are involved and shall fully set forth the circumstances of the case, the interpretation that is claimed on an allegation of error, the variance that is applied for and the grounds on which it is claimed that the same should be granted, the use for which a special permit is required, and any other such information that the Board may require.

§ 28-25.3 Time for Appeal.

- a. The Planning Board shall render a decision not later than 120 days after the date an appeal is taken from the decision of the administrative officer.
- b. Failure of the Planning Board to render a decision within the 120-day period or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant.

§ 28-25.4 Procedure for Appeal.

- a. Upon receipt of an appeal, the Planning Board shall fix a reasonable time for a hearing, giving the notice thereof to the appellant.
- b. Within thirty (30) days of the filing of an appeal, the Planning Board shall publish a notice of the time and place of a public hearing of such appeal or application in a local newspaper of general circulation in the Town.
- c. At least ten (10) days prior to the date set for the hearing, the Planning Board shall post on the land or building involved in any appeal for a variance or application for a special permit, a notice of said hearing and a statement indicating clearly both the property affected and the nature of the proposal.
- d. At least ten (10) days prior to the date set for the hearing, the appellant shall give personal notice to all owners of property situated within 200 feet of the property affected by such appeal.
 1. If the owners are the occupants of the property affected by the appeal, such notice may be either by registered mail or by personal service at their usual place of abode.
 2. If the owners are not residents of the Town, such notice may be given by sending written notice by registered mail to the last known address of the owner or owners as shown on the most recent tax list of the Town.
 3. Where an owner is a partnership, service upon any partner shall be sufficient, and where the owner is a corporation, service on any officer shall be sufficient.
 4. The appellant shall by affidavit present proof to the Planning Board at the time of the hearing that said notices have been duly served as aforesaid.
 5. Any party may appear at the hearing in person, by agent or by attorney.

§ 28-25.5 (Repealed).

§ 28-25.6 Time Limit on Action by Appellant.

a. Unless otherwise specified by the Planning Board, a decision on any appeal for a variance or application for a special permit shall expire without further notice if the applicant fails to obtain any necessary building permit or to comply with the conditions of an authorized permit within one year from the date of such decision.

b. An extension of time may be granted by the Planning Board because of the occurrence of conditions unforeseen at the time of the original action. An application for an extension of time shall be subject to the same procedures as specified for the original issuance of the variance or special permit.

§ 28-25.7 Repeated Hearing.

Once the Planning Board has heard all the evidence presented upon an application or appeal as provided in this Chapter, and denies the same, the Planning Board shall refuse to hold further hearings on the substantially similar application or appeal by the same applicant, successor, or assignee for a period of six (6) months.

If the Planning Board determines from the information supplied with a request for a rehearing that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, the appeal or application may be considered within the six (6)-month period.

§ 28-26 PLANNING BOARD REVIEW.

§ 28-26.1 General.

The Zoning Ordinance must be substantially consistent with the land use element of the Master Plan of the Town, pursuant to the Municipal Land Use Law, N.J.S.A. 40-:55D-1 et seq. At least thirty (30) days prior to final action of the governing body, the Zoning Ordinance and any revisions or amendments shall be referred to the Planning Board for review and comment.

§ 28-26.2 (Repealed).

§ 28-26.3 (Repealed).

§ 28-26.4 Criteria for Review.

The Planning Board shall review each item before it with respect to but not limited to:

- a. Conformity to the Master Plan.
- b. Conformity to the Official Map.
- c. Impact within the community.
- d. Impact of traffic.
- e. Impact of government services.
- f. Kind and intensity of uses permitted in the district.
- g. Social and economic characteristics of the community.

§ 28-27 VIOLATIONS AND PENALTIES.

§ 28-27.1 Complaints of Violations.

Any person may file a complaint if there is any reason to believe a violation of this chapter exists. All such complaints must be in writing and shall be filed with the Enforcing Officer, who shall record such complaint and immediately investigate. Upon his becoming aware of any violation of any provisions of this chapter, the Enforcing Officer shall serve notice of such violation on the person committing or permitting the same, and if such violation has not ceased within such reasonable time as the Enforcing Officer has specified in such notice, he shall institute such action as may be necessary to terminate the violation.

§ 28-27.2 Procedures for Abatement of Violations.

In the event that any structure is erected, altered, repaired, or used in violation of this chapter, the Enforcing Officer, in addition to other remedies, may institute any appropriate legal action or proceedings to prevent such unlawful construction, alteration, or repair, or abate such violation and to prevent the occupancy of the structure or land.

§ 28-27.3 Penalties.

It shall be the duty of the Enforcing Officer, to strictly enforce all the provisions of this chapter. The general agent, architect, builder, contractor, owner or tenant, or any other person who commits, takes part or assists in any violation of this chapter or who maintains any building or premises in which any violation of this chapter shall exist, shall for each and every day that such a violation continues, be liable to the penalty stated in Chapter 1, Section 1-5.

Anything in this chapter to the contrary notwithstanding, no submission to or final report, action or approval by Planning Board shall not be required or authorized, under this temporary interim ordinance, until adoption of land use element of comprehensive development plan and final permanent Zoning Ordinance and related ordinances, upon which adoption, the Planning Board shall commence full operations and functions, under this and any succeeding ordinance. While this interim ordinance is in effect, the role of the Planning Board shall be advisory, except that variances shall require approval of the Planning Board, according to law.

§ 28-28 (Repealed).

§ 28-29 REPEALER.

All ordinances or parts of ordinances in conflict with this chapter to the extent of such conflict and no further, are hereby repealed.

§ 28-30 EFFECTIVE DATE.

This chapter shall take effect immediately, subsequent to the adoption thereof.

§ 28-31 TELECOMMUNICATIONS ANTENNAS AND TOWERS.

§ 28-31.1 Intent and Goals.

- a. Intent. The intent of this section is to establish general guidelines for the placement and appearance of wireless telecommunications facilities in a manner that achieves the stated goals of this section.
- b. Goals. The goals of this section 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 section 28-2.2 (Town of Guttenberg's Zoning Ordinance). Any word or term not defined herein or in section 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 section, 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 section 28.31, the following words shall have the meanings as indicated:

ALTERNATIVE TOWER STRUCTURE

Shall mean and include 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

Shall mean 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

Shall mean 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

Shall mean when wireless telecommunications facilities for two or more wireless telecommunications carriers are placed together on the same tower, alternative tower structure or building.

FAA

Shall mean the Federal Aviation Administration.

FCC

Shall mean the Federal Communications Commission.

GOVERNING AUTHORITY

Shall mean the Mayor and Town Council of the Town of Guttenberg or the Town of Guttenberg.

HEIGHT

Shall mean 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

Shall mean the surface or structure upon which antennas are mounted, including building mounted, tower mounted and structure mounted.

MUNICIPAL LAND USE LAW

Shall mean the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

PREEXISTING TOWERS AND ANTENNAS

Shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of this section. 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 section as "preexisting antennas" and "preexisting towers."

PUBLIC OFFICER

Shall mean the Zoning Official of the Town of Guttenberg.

TARGETED MARKET COVERAGE AREA

Shall mean the area that is targeted to be served by a proposed wireless telecommunications facility.

TOWER

Shall mean 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 RECONSTRUCTION

Shall mean 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.

TOWER, GUY

Shall mean a type of tower that is supported or braced through the use of cables (guy wires) which are permanently anchored.

TOWER, LATTICE

Shall mean 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

Shall mean 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.

WIRELESS TELECOMMUNICATIONS

Shall mean 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

Shall mean a type of antenna that is used specifically for the purpose of providing wireless telecommunications services.

WIRELESS TELECOMMUNICATIONS CARRIER

Shall mean 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

Shall mean 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

Shall mean 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 section, except as provided in paragraphs b through f, inclusive.
- b. **District Height Limitations.** The requirements set forth in this section 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 section 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 section other than provisions specifically relating to Federal requirements, building codes, safety standards and monitoring report requirements.
- e. **AM Array.** For purposes of implementing this section, 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 section 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 section 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 section 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 of section 28-31.11.

§ 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 section, 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 owned, leased 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 section 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 section 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:

(a) 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.

§ 28-31.6 (Reserved)

§ 28-31.7 Conditional Use Zoning Regulations for Wireless Telecommunications Facilities.

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 fifty (50) feet in height.

2. No antenna shall be installed at a height lower than fifty (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 twenty (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 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 twenty-five (25) feet; cable conduits longer than twenty-five (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 facade 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 fifteen (15) feet in height.
4. For wireless telecommunications facilities on buildings or structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area or over twelve (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 twelve (12) feet and a planted height of at least six (6) 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 section.

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 building 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 1/2 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 1/2 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 Open Public Records Act 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 section. 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.

(1) This obligation shall include copies of all correspondence as to rates, cost of contributions, etc.

(2) Copies of rejection of the offers propounded on the applicant by the owners of the existing structure and/or tower.

(3) Written cost proposals indicating actual quoted figures required by the owner of the existing structures and/or tower.

(4) 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 section.

7. A statement including a full description of compliance with all applicable requirements of this section.

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 section.

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 section. Said submission may be modified to include a total of four sets of required submission materials pursuant to this section. 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 fifteen (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 forty-five (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:

(a) 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 forty-five (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 forty-five (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 section, 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 section 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 ninety (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 thirty (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 twelve (12) months.
- b. The owner of any wireless telecommunications facility that is abandoned shall physically remove it within ninety (90) days of receipt of notice from the Building Department notifying the owner of such abandonment. If there are two (2) 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 section 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 section.
- 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 section or the application of said provisions to any person or circumstance is declared invalid, such invalidity shall not affect the remaining sections of this section.
- b. This section and the provisions herein are declared to be severable.

c. If any provisions of this section or the application of such provision to any person or circumstance is declared unconstitutional, that provision shall not affect the remaining sections of this section.

d. All ordinances or parts thereof inconsistent herewith are hereby repealed to the extent of such inconsistencies to this section and, to this end, the provisions of this act are declared to be severable.

§ 28-31.16 Repealer.

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

§ 28-31.17 Effective Date.

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

**Town of Guttenberg Town Code
Chapter 28
Schedule of Zoning Regulations, Town Code § 28-4.4**

District		Permitted Uses	Minimum Lot Size		Maximum Height		Maximum Coverage	Minimum Yard Requirements				Minimum Depth (feet)	Lot	Minimum Open Space
			Width (feet)	Area (square feet)	Stories	Feet		Front	One Side	Two Sides	Rear			
R-1	Low Density Residential	§ 28-4.5	25	2,500	3	35	Building 40% Lot 75%	Existing average	2	5 feet, 1 inch	25	n/a		n/a
R-2	High Density Residential	§ 28-4.6	n/a	40,000	50	550	Building 60% FAR 3:1	n/a	n/a	n/a	n/a	n/a		n/a
R-3	Waterfront Residential	§ 28-4.7	75	7,500	3	35	Building 60%	5	n/a	5	25	100		n/a
R-4	Mid-Rise Mixed Use	§ 28-4.8												
	Lots less than 20,000 sf in area		50	5,000	4 stories/50 feet, plus additional 1 story and 10 feet for each additional 2,500 sf, starting at 7,500 sf, maximum 7 stories, 80 feet with 15,000 sf of area		Impervious coverage 90%	5	3 feet one inch or	5 feet combined both sides	5	100		10%
	Lots 20,000 sf or greater in area		100	20,000	8	90	Impervious coverage 90%	10	3	3 on each side	5	200		10%
C	Commercial	§ 28-4.9	25	2,500	5	55	Building 90%	Existing average	0	0	10	100		n/a
P	Parks and Recreation	§ 28-4.10	Site Plan subject to Planning Board approval											

[Updated Date, 2026, Ord. 16-26.]

Ordinance#16-26 Introduction Vote

A motion to introduce was made by Councilperson Hokien and seconded by Councilperson Habermann
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt
Nays: None
Absent: None
Abstain: None

ORDINANCE #17-26
INTRODUCTION

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY

AN ORDINANCE AMENDING THE TOWN'S ZONING ORDINANCE CONCERNING ZONING DESIGNATIONS AND ADOPTING THE ZONING MAP

WHEREAS, on December 19, 2016, the Town Council and Mayor of the Town of Guttenberg adopted Ordinance #32-16, which, among other things, established a new zoning district named the R-5 High-Rise Residential Use Zone (the "R-5 Zone"), and rezoned certain parcels from the R-4 Mid-Rise Mixed Use Zone (the "R-4 Zone"), specifically: Block 1, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12.01, 12.02, 12.03, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31; Block 2, Lots 1, 2, 3.01, 4.01, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17; Block 38, Lots 4, 6, 7, 8.01, and 8.02; Block 39, Lots 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14; and Block 40, Lot 1; and

WHEREAS, by resolution dated December 12, 2016, the Joint Planning/Zoning Board of Adjustment of the Town of Guttenberg (the "Board"), the Board concluded that the establishment of the R-5 Zone and the rezoning of the parcels identified in Ordinance #32-16 from the R-4 Zone to the R-5 Zone was consistent with the Master Plan Update Reexamination Report and Land Use Element Plan Amendment, prepared by Phillips Preiss Shapiro Associates, Inc., adopted June 15, 2009 (the "2009 Reexamination Report"); and

WHEREAS, on April 21, 2021, the Town Council and Mayor adopted Ordinance #17-21, which, among other things, rezoned additional parcels from the R-4 Zone to the R-5 Zone, specifically, Block 38, Lots 1, 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 3, 9, 10, 11, 12, and 13; and Block 39, Lots 1, 2, 3, 15.01, 15.02, 15.03, 15.04, 15.05, 15.06, 15.07, 15.08, 15.09, 15.10, 15.11, and 16; and

WHEREAS, by Ordinance #17-21, the Town Council and Mayor adopted as the Zoning Map of the Town of Guttenberg the map entitled "Zoning Map, Town of Guttenberg," prepared by Remington & Vernick Engineers, dated April 26, 2021; and

WHEREAS, by resolution dated April 19, 2021, the Board concluded that rezoning of the parcels identified in Ordinance #17-21 from the R-4 Zone to the R-5 Zone was consistent with the 2009 Reexamination Report; and

WHEREAS, by resolution dated May 15, 2023, the Board adopted the Master Plan Reexamination Report, prepared by Jill Hartmann, P.P., AICP, dated May 15, 2023 (the "2023 Reexamination Report"), which, among other things, recommended that portions of the R-5 Zone on the east side of Guttenberg be reclassified to the R-4 Zone, except for parcels with either existing high-rises or high-rise approvals, specifically, Block 38, Lots 4 and 6, and Block 40, Lot 1, and that all parcels on the west side of Guttenberg located within the R-5 Zone be reclassified to the R-4 Zone; and

WHEREAS, on October 23, 2023, the Town Council and Mayor, acting on recommendations from the Board, adopted Resolution #187-23, which declared Block 5, Lots 1, 2, 3, 4, 5, 16, 17, 18, 19, 20, 21, and 22; Block 20, Lots 26, 27, and 28; and Block 29, Lots 11, 12, and 13 to be areas in need of redevelopment pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “LRHL”); and

WHEREAS, on March 25, 2026, the Town Council and Mayor, acting on recommendations of the Board, adopted Resolution #64-26, which declared Block 13, Lot 11, and Block 34, Lot 3 to be areas in need of redevelopment pursuant to the LRHL; and

WHEREAS, the Town Council and Mayor have determined that it is in the best interests of the Town, its residents, and the public to implement the Board’s recommendations in the 2023 Reexamination Report, to the extent it called for rezoning certain parcels from the R-5 Zone to the R-4 Zone; and

WHEREAS, the Town Council and Mayor have further determined that all properties currently situated within the R-5 Zone, including those with existing high-rise buildings and approvals, should be rezoned from the R-5 Zone to the R-4 Zone, consistent with the substance of the Board’s recommendation to eliminate the R-% (high-rise) Zone; and

WHEREAS, Remington & Vernick Engineers has prepared a new map, which new map reflects the zoning reclassifications contemplated herein and which identifies the areas in need of redevelopment approved by the Town Council and Mayor since the creation of the prior Zoning Map adopted by Ordinance #17-21; and

WHEREAS, the Town Council and Mayor referred this Ordinance to the Board in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64, and the Board adopted a resolution at its regular meeting held on May 18, 2026, concluding the zoning reclassifications of this Ordinance are consistent with the recommendations of the 2023 Reexamination Report;

NOW, THEREFORE, BE IT ORDAINED by the Town Council and Mayor of the Town of Guttenberg, County of Hudson, State of New Jersey that the Revised General Ordinances of the Town of Guttenberg are hereby amended as follows:

I.

The zoning district classifications for the following properties are amended, in furtherance of the recommendations of the Board in the 2023 Reexamination Report, as follows:

Block	Lot	Current Zone	New Zone
1	1	R-5	R-4
1	2	R-5	R-4
1	3	R-5	R-4
1	4	R-5	R-4
1	5	R-5	R-4
1	6	R-5	R-4
1	7	R-5	R-4

1	8	R-5	R-4
1	9	R-5	R-4
1	10	R-5	R-4
1	11	R-5	R-4
1	12.01	R-5	R-4
1	12.02	R-5	R-4
1	12.03	R-5	R-4
1	13	R-5	R-4
1	14	R-5	R-4
1	15	R-5	R-4
1	16	R-5	R-4
1	17	R-5	R-4
1	18	R-5	R-4
1	19	R-5	R-4
1	20	R-5	R-4
1	21	R-5	R-4
1	22.01	R-5	R-4
1	22.02	R-5	R-4
1	23	R-5	R-4
1	24	R-5	R-4
1	25	R-5	R-4
1	26	R-5	R-4
1	27	R-5	R-4
1	28	R-5	R-4
1	29	R-5	R-4
1	30	R-5	R-4
1	31	R-5	R-4
2	1	R-5	R-4
2	2	R-5	R-4
2	3.01	R-5	R-4
2	4.01	R-5	R-4
2	5	R-5	R-4
2	6	R-5	R-4
2	7	R-5	R-4
2	8	R-5	R-4
2	9	R-5	R-4
2	10	R-5	R-4
2	11	R-5	R-4
2	12	R-5	R-4
2	13	R-5	R-4
2	14	R-5	R-4
2	15	R-5	R-4
2	16	R-5	R-4
2	17	R-5	R-4
38	1	R-5	R-4
38	2.01	R-5	R-4

38	2.02	R-5	R-4
38	2.03	R-5	R-4
38	2.04	R-5	R-4
38	2.05	R-5	R-4
38	2.06	R-5	R-4
38	3	R-5	R-4
38	4	R-5	R-4
38	6	R-5	R-4
38	7	R-5	R-4
38	8.01	R-5	R-4
38	8.02	R-5	R-4
38	9	R-5	R-4
38	10	R-5	R-4
38	11	R-5	R-4
38	12	R-5	R-4
38	13	R-5	R-4
39	1	R-5	R-4
39	2	R-5	R-4
39	3	R-5	R-4
39	4	R-5	R-4
39	5	R-5	R-4
39	6	R-5	R-4
39	7	R-5	R-4
39	8	R-5	R-4
39	9	R-5	R-4
39	10	R-5	R-4
39	11	R-5	R-4
39	12	R-5	R-4
39	13	R-5	R-4
39	14.01	R-5	R-4
39	14.02	R-5	R-4
39	14.03	R-5	R-4
39	14.04	R-5	R-4
39	14.05	R-5	R-4
39	14.06	R-5	R-4
39	14.07	R-5	R-4
39	14.08	R-5	R-4
39	14.09	R-5	R-4
39	15.01	R-5	R-4
39	15.02	R-5	R-4
39	15.03	R-5	R-4
39	15.04	R-5	R-4
39	15.05	R-5	R-4
39	15.06	R-5	R-4
39	15.07	R-5	R-4
39	15.08	R-5	R-4

39	15.09	R-5	R-4
39	15.10	R-5	R-4
39	15.11	R-5	R-4
39	16	R-5	R-4
40	1	R-5	R-4

II.

The map prepared by Remington & Vernick Engineers is hereby adopted as the Zoning Map, as that term is defined in Town Code § 28-2.2

III.

Section 28-3.2 of the Town Code is hereby amended as follows:

The boundaries of the zoning districts shall be as shown upon the ~~M~~map entitled “Zoning Map, Town of Guttenberg,” dated ~~April 26, 2021~~ prepared by Remington & Vernick Engineers, on file with the Office of the Town Clerk, which shall be the Zoning Map. Any change in the boundaries as delineated on the Zoning Map shall be made on the Zoning Map promptly after any amendment to the Zoning Ordinance has been approved by the ~~Mayor and Town Council~~ and Mayor of the Town of Guttenberg.

IV.

Within thirty (30) days from final adoption of this Ordinance, the Town Clerk shall file the Zoning Map with the Hudson County Register in accordance with N.J.S.A. 40:55D-16.

V.

Within thirty (30) days from final adoption of this Ordinance, the Town Clerk shall file a copy of this Ordinance with the Hudson County Planning Board in accordance with N.J.S.A. 40:55D-16.

VI.

Within ten (10) days from final adoption of this Ordinance, the Town Clerk shall publish notice of final adoption in the official newspaper of the Town.

VII.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause, or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

VIII.

All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only, however, to the extent of such conflict or inconsistency.

IX.

The Town Clerk shall have this Ordinance incorporated in the official copies of the Revised General Ordinances. The Town Clerk and the Town Attorney be and are hereby authorized and directed to correct any typographical error or to change any heading, chapter numbers, article numbers, and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those headings and numbers and existing provisions of the Revised General Ordinances of the Town of Guttenberg, or as they may otherwise deem appropriate, even if headings, chapter numbers, article numbers, and section numbers are otherwise provided for in this Ordinance.

X.

This Ordinance shall take effect upon passage and publication as required by law.

Ordinance#17-26 Introduction Vote

A motion to introduce was made by Councilperson Delafuente and seconded by Councilperson Hokien
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None
Absent: None Abstain: None

Payment of Claims:

A motion was made to pay the bill list by Councilperson Hokien and seconded by Councilperson Fundora
Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt
Nays: None Absent: None

- **Councilman De La Fuente abstained to PO 260821**
- **Councilman Haberman abstained to PO 260463**

New Business:

TOWN OF GUTTENBERG, COUNTY OF HUDSON, STATE OF NEW JERSEY
RESOLUTION #86-2026
A RESOLUTION AUTHORIZING SETTLEMENT OF PENDING LITIGATION

WHEREAS, on February 25, 2025, the Town of Guttenberg was named as a defendant in a lawsuit brought by Gloria Leonard and Florence Yang (“Plaintiffs”) in the Superior Court of New Jersey, Law Division, Civil Part, Hudson County, captioned *Gloria Leonard et al. v. Township [sic] of Guttenberg et al.*, docket number HUD-L-730-25 (the “Litigation”), alleging damages stemming from a vehicle accident that took place on or about February 26, 2023; and

WHEREAS, the Town of Guttenberg has filed an Answer and denied all liability to the Plaintiffs; and

WHEREAS, a settlement of the Litigation has been proposed that would resolve all claims against the Town of Guttenberg;

NOW, THEREFORE, BE IT RESOLVED by the Town Council and Mayor of the Town of Guttenberg, County of Hudson, State of New Jersey, do hereby authorize and approve of a settlement with Plaintiffs in the amount of \$30,000 for Plaintiff Gloria Leonard, or her legal successor, and in the amount of \$10,000 for Plaintiff Florence Yang.

BE IT FURTHER RESOLVED, that settlement of the Litigation shall be subject to Plaintiffs' executing a form of settlement agreement, in a form approved by Special Counsel for the Town of Guttenberg, appearing as the attorney of record in the Litigation. The settlement agreement shall include a release by Plaintiffs of all claims against the Town, the dismissal of the Litigation against the Town with prejudice, and such other terms as the Town's Special Counsel shall deem appropriate.

BE IT FURTHER RESOLVED, that the Mayor or the Town Administrator are hereby jointly authorized to execute the settlement agreement on behalf of the Town.

A motion was made by Councilperson Malave seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

Public Portion:

A motion was made to open public portion by Councilperson Malave seconded by Councilperson Fundora Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

NO COMMENTS

A motion was made to close public portion by Councilperson Delafuente seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

Adjournment:

A motion to adjourn was made by Councilperson Delafuente seconded by Councilperson Hokien Ayes: Councilpersons Delafuente, Fundora, Habermann, Hokien, Malave and Mayor Zitt Nays: None Absent: None Abstain: None

Meeting was adjourned at 5:10 P.M.

Respectfully Submitted,

Dr. Cosmo A. Cirillo, RMC
Town Clerk