

TOWN OF GUTTENBERG
COUNTY OF HUDSON, STATE OF NEW JERSEY

ORDINANCE #31-24

AMENDING CHAPTER 28 OF THE TOWN CODE CONCERNING ZONING

CHAPTER 28. ZONING

§ 28-1 TITLE AND PURPOSE.

§ 28-1.1 Title.
[Ord. 3/87 § 1.100]

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

§ 28-1.2 Application.
[Ord. 3/87 § 1.200]

No building, structure, or land shall be used or occupied, ~~not 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 ~~rules, regulations, ordinances, deed restrictions or covenants~~ 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.
[Ord. 3/87 § 1.300]

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.

[Ord. 3/87 § 2.200]

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.

[Ord. 3/87 § 2.300; Ord. #005-10 § I, 28-2.2; Ord. No. 32-2016; amended 7-26-2021 by Ord. No. 19-21]

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.

HIGH-RISE RESIDENTIAL BUILDING

Shall mean a [residential](#) building consisting of nine to 15 stories.

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.](#)
[have the same meaning as motel.](#)
[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 until 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 subsection 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 subsection and may not be changed without amending this Zoning \[Ordinance\]\(#\).](#)

§ 28-3 ESTABLISHMENT OF ZONING DISTRICTS.

§ 28-3.1 Zone Districts.

[Ord. 3/87 § 3.100; Ord. #005-10 § I, 28-3.1; Ord. No. 32-2016]

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 |
| R-5 | High-Rise Residential Use |
| C | Commercial |
| P | Parks and Recreation |

§ 28-3.2 Zoning Map.
[Ord. 3/87 § 3.200; Ord. #005-11; Ord. No. 32-2016 § II; Ord. No. 32-2016 § III; amended 5-24-2021 by Ord. No. 17-21]

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. 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.[\[1\]](#)

[1]
Editor's Note: A copy of the Zoning Map is included as an attachment to this chapter. A full size color version of the Zoning Map may be found in the Town offices.

§ 28-3.3 Interpretation of District Boundaries.
[Ord. 3/87 § 3.300]

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.
[Ord. 3/87 § 4.100]

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.
[Ord. 3/87 § 4.101]

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.
[Ord. 3/87 § 4.102]

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.
[Ord. 3/87 § 4.200; Ord. #005-10 § I, 28-4.4; Ord. #09-11; Ord. No. 32-2016]

The regulations prescribed for each of the zoning districts listed in subsection 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.^[1]

[1] *Editor's Note: The Schedule of District Regulations is included as an attachment to this chapter.*

§ 28-4.5 District Regulations for R-1 Low-Density Residential Zone.
[Ord. #005-10 § I, 28-4.5; Ord. #09-11; Ord. No. 32-2016]

- 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.
 [Ord. #005-10 § I, 28-4.6]

- 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.
 [Ord. #005-10 § I, 28-4.7]

- 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.
 [Ord. #005-10 § I, 28-4.8; Ord. No. 32-2016]

- 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:
- 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: 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.
[Ord. #005-10 § I, 28-4.9; Ord. No. 32-2016]

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 subsection (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.
- Mid-rise residential buildings.

Field Code Changed

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.
[Ord. #005-10 § I, 28-4.10]

- 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.

§ 28-4.11 District Regulations for R-5 High-Rise Residential Use Zone.
 [Ord. No. 32-2016]

- a. Use Regulations:
 1. Permitted Principal Uses:
 - (a) High-rise residential buildings.
High-rise residential buildings.
 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, outdoor private park areas.
 - (e) Signs.
 - (f) Public parks.
 3. Permitted Conditional Uses: None.
- b. Bulk Regulations:
 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 each side.
 6. Minimum rear yard setback: 5 feet.
 7. Maximum building height: 15 stories and 180 feet exclusive of roof appurtenances.
 8. Maximum impervious surface coverage inclusive of building coverage: 90%.
 9. Minimum open space: 10%.
- c. Additional Regulations:
 1. Minimum parking structure setbacks: Parking structures shall comply with the yard requirements for principal buildings.
 2. Exposed parking areas under the buildings 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.
 3. 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: 70% minimum.
 - (b) Two-Bedroom Unit: 20% maximum.
 - (c) Three-Bedroom Unit: 10% maximum.

§ 28-5 SUPPLEMENTARY REGULATIONS.

§ 28-5.1 General.
[Ord. 3/87 § 4.300]

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.
[Ord. 3/87 § 4.310]

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.
[Ord. 3/87 § 4.311; New]

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 subsection 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.
[Ord. 3/87 § 4.312]

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.
[Ord. 3/87 § 4.313]

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.
[Ord. 3/87 § 4.314]

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.
[Ord. 3/87 § 4.316; Ord. #18-13]

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.
[Ord. 3/87 § 4.317]

Sex shops (as defined in subsection 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) [1]

[1] *Editor's Note: Former subsection 28-5.10, Garden Apartments, previously codified herein and containing portions of Ordinance 3/87 § 4.318, was repealed in its entirety by Ordinance No. 005-10.*

§ 28-5.11 [\(Reserved\)](#)

§ 28-5.12 [\(Reserved\)](#)

§ 28-5.13 Drainage of Lots.
[Ord. 3/87 § 4.321]

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.
[Ord. 3/87 § 4.322]

- 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](#).
[Ord. 3/87 § 4.323]

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.
[Ord. 3/87 § 4.324]

- 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.
[Ord. 3/87 § 4.326]

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.
[Ord. 3/87 § 4.330]

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.
[Added 7-26-2021 by Ord. No. 19-21]

- a. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), (“the Act”), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Town of Guttenberg (“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.

- b. It is the purpose of the Town in enacting this section that all cannabis activity otherwise permitted by the Act, but as to which the Town may prohibit within 180 days of the effective date of the Act, pursuant to Section 31b thereof entitled "Municipal Regulations or Ordinances," be prohibited, and that this section be understood, read and applied as broadly as possible to effectuate such purpose.

§ 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.

[Ord. 3/87 § 4.400]

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.

[Ord. 3/87 § 4.410]

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 10 feet and a clear height of 14 feet.

§ 28-6.2 Location.
[Ord. 3/87 § 4.411; Ord. No. 32-2016]

- 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 subsection 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.
[Ord. 3/87 § 4.412]

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 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 25 feet in width and located and constructed in accordance with specifications prescribed by the Enforcing Officer. 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.
 [Ord. 3/87 § 4.413]

- 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 subsection 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 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.
 [Ord. 3/87 § 4.414; Ord. 12/7/87; Ord. No. 32-2016]

- 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 <u>and Motels</u> | 1 space for each living or sleeping unit. |
| 11. | Restaurants, beer parlors and night clubs | 1 for each 5 seats. |
| 12. | Retail stores, shops, etc., in Commercial Districts <u>establishment and service establishment</u> | 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. | <u>Motels, Philanthropic institutions, museums and commercial entertainment facilities</u> | 1 space for each living or sleeping unit. <u>1 for each 300 square feet of gross floor area</u> |

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 Districts, 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.

§ 28-6.5A — Parking Regulations for R-4 Mid-Rise Mixed-Use Zones.
~~[Ord. #005-10 § 1, 28-6.X; Ord. No. 32-2016]~~

§ 28-6.6 Required Loading Spaces.
[Ord. 3/87 § 4.415]

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 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, manufacturing, storage, and miscellaneous use | Under 20,000 square feet 20,000-50,000 square feet 51,000-100,000 square feet For each additional 50,000 square feet or major fraction thereof | 1 2 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:

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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.

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§ 28-6A.2 Definitions

CERTIFICATE OF OCCUPANCY

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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

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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.

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§ 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.

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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 is 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.

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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 _____ for each hour that the electric vehicle is connected to the EVSE *for per kWh*.
2. This fee may be amended by a resolution adopted by the governing body.
3. 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.
[Ord. 3/87 § 4.421]

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.
[Ord. 3/87 § 4.422]

- 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 15 feet from the front lot line, and not exceeding five 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 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 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 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 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 § 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.

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§ 28-7.3 Signs in Commercial Districts.
[Ord. 3/87 § 4.423]

- a. All signs permitted in residence districts as described in subsection 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 15 feet above grade.

§ 28-7.4 Types of Signs Prohibited.
[Ord. 3/87 § 4.424; Ord. #013/03]

- 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.
[Ord. 3/87 § 4.430]

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. 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 feet in height, not less than 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.
[Ord. 3/87 § 4.510; Ord. #005-10 § I, 28-9.1]

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

[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.
[Ord. 3/87 § 4.521; Ord. No. 005-10 § I, 28-9.2]

- 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.
[Ord. 3/87 § 4.522; Ord. No. 005-10 § I, 28-9.3; Ord. No. 32-2016; amended 10-26-2020 by Ord. No. 26-20]

- 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.
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 - (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 verses 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.

[Amended 10-26-2020 by Ord. No. 26-20]

- 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 subsection 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.

§ 28-9.4(Reserved)

§ 28-9.5(Reserved)

§ 28-9.6(Reserved) [1]

[1] *Editor's Note: Former subsections 28-9.4, Standards Applicable to Limited Retail and Service Uses, 28-9.5, Standards Applicable to Gasoline Service Stations and 28-9.6, Standards Applicable to Sale of Used Automobiles, previously codified herein and containing portions of Ord. 3/87 §§ 4.523 — 4.525 respectively were repealed by Ordinance No. 005-10.*

§ 28-10through § 28-13. (RESERVED)

§ 28-14 NONCONFORMING USES AND BUILDINGS.

§ 28-14.1 Statement of Intent.

[Ord. 3/87 § 5.100]

- 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.
[Ord. 3/87 § 5.200]

- a. A use, building or structure which shall be made nonconforming, as defined in subsection 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.
[Ord. 3/87 § 5.300]

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 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.
[Ord. 3/87 § 6.100]

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.
[Ord. 3/87 § 6.110]

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.
[Ord. 3/87 § 6.200]

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.
[Ord. 3/87 § 6.210]

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.
[Ord. 3/87 § 6.211]

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.
[Ord. 3/87 § 6.212]

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.
[Ord. 3/87 § 6.213]

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.
[Ord. 3/87 § 6.214]

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.
[Ord. 3/87 § 6.300]

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.
[Ord. 3/87 § 6.310]

- 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.
[Ord. 3/87 § 6.320]

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) [1]

[1]Editor's Note: Former Section 28-21, Special Use Permits, previously codified herein and containing portions of Ordinance 3/87 § 6.330, was repealed in its entirety by Ordinance No. 005-10. See Section 28-9 for Conditional Use Permits.

§ 28-22 TEMPORARY USES.

§ 28-22.1 Authorization of Temporary Uses.

[Ord. 3/87 § 6.421]

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) [1]

[1]Editor's Note: Former Section 28-23, Special Permit Procedure, previously codified herein and containing portions of Ordinance 3/87 § 6.422, was repealed in its entirety by Ordinance No. 005-10.

§ 28-24 VARIANCES.

§ 28-24.1 Hardship Variance Procedure.

[Ord. 3/87 § 6.423]

- 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.
[Ord. 3/87 § 6.424]

- 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.
[Ord. 3/87 § 6.500]

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.
[Ord. 3/87 § 6.510]

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.
[Ord. 3/87 § 6.511]

- 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.
[Ord. 3/87 § 6.512]

- 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 [\(Repealed\)](#).
[Ord. 3/87 § 6.513]

§ 28-25.6 Time Limit on Action by Appellant.
[Ord. 3/87 § 6.514]

- 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.
[Ord. 3/87 § 6.515]

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.
[Ord. 3/87 § 6.521]

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 [\(Repealed\)](#).
[Ord. 3/87 § 6.522]

§ 28-26.3 [\(Repealed\)](#).
[Ord. 3/87 § 6.523]

§ 28-26.4 Criteria for Review.
[Ord. 3/87 § 6.524]

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.
[Ord. 3/87 § 7.000]

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.
[Ord. 3/87 § 7.100]

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.
[Ord. 3/87 § 7.200]

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.
[Ord. 3/87 § 9]

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.
[Ord. 3/87 § 10]

This chapter shall take effect immediately, subsequent to the adoption thereof.

§ 28-31 TELECOMMUNICATIONS ANTENNAS AND TOWERS.

§ 28-31.1 Intent and Goals.
[Ord. No. 005-10 § I, 28-31.1]

- 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.
 [Ord. No. 005-10 § I, 28-31.2]

- a. Any word or term not defined herein shall be as defined in subsection 28-2.2 (Town of Guttenberg’s Zoning Ordinance). Any word or term not defined herein or in subsection 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 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.

PLANNING BOARD

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

PREEXISTING TOWERS AND ANTENNAS

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. [Ord. No. 005-10 § I, 28-31.3]

- 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.
[Ord. No. 005-10 § I, 28-31.4]

- 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 subsection (§ 28-31.11) of this section.

§ 28-31.5 Zones Where Permitted; Permitted and Conditional Uses.
[Ord. No. 005-10 § I, 28-31.5]

- 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.
[Ord. No. 005-10 § I, 28-31.7]

- a. Applicability. The requirements contained in this section shall govern all wireless telecommunications facilities that are specified as a conditional use in certain zoning districts. All requirements contained in this section shall be considered conditional use standards.
- b. Minimum Structure and Antenna Height.
 - 1. No antenna shall be installed on a structure that is less than 50 feet in height.
 - 2. No antenna shall be installed at a height lower than 50 feet.
- c. Maximum Antenna Height. No antenna shall extend above the following maximum height standards:

1. Antennas mounted on an existing building or existing alternative tower structure shall not exceed by more than 20 feet, or 20% of the existing height of the building or structure, whichever is less.
 2. Antennas mounted on an existing or reconstructed tower shall not exceed the height of the existing tower.
- d. Tower Reconstruction Provisions. Tower reconstruction, as defined herein, shall be in accordance with all of the following:
1. Demolition and reconstruction of a tower that does not meet the definition of tower reconstruction shall not be permitted, conditionally or otherwise.
 2. Reconstruction of an existing tower shall only be reconstructed as a monopole tower.
 3. Reconstruction of an existing tower may be demolished and rebuilt to a height no greater than the demolished tower. The antenna height shall not exceed the height of the reconstructed tower.
 4. Reconstruction of an existing tower shall be exempt from the separation requirements otherwise applicable as conditional use standards.

§ 28-31.8 Performance and Design Standard for All Wireless Telecommunications Facilities.
[Ord. No. 005-10 § I, 28-31.8]

- a. Aesthetics.
 1. Towers shall maintain a galvanized steel finish, subject to any applicable standards of the FAA, and be painted a neutral color so as to reduce visual obtrusiveness. Color shall be selected to be consistent with the color scheme of surrounding buildings or structures.
 2. The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 4. The use of stealth designs and camouflage structures, materials and treatments (trees, steeples, clock towers, etc.) shall be utilized in locations where vegetative conditions or architectural conditions warrant such treatments.
- b. Wiring. The maximum linear distance of an aboveground cable/wiring conduit running between an antenna mounting structure and the equipment structure shall be no greater than 25 feet; cable conduits longer than 25 feet shall be installed below grade. On building-mounted sites, no cable/wiring shall be permitted on the front or side facades of the building; wiring shall be installed within the interior of the building or on the rear 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.
[Ord. No. 005-10 § I, 28-31.9]

- a. Bulk Standards. Equipment cabinet or structures shall comply with the following requirements which are deemed to be zoning/bulk standards:
 - 1. The cabinet or structure shall not contain more than 100 square feet of gross floor area per carrier.
 - 2. Ground level cabinets shall conform to principal building setback requirements of the applicable zone district.
 - 3. The cabinet or structure shall not be more than 15 feet in height.
 - 4. For wireless telecommunications facilities on buildings or structures which are less than 65 feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area or over 12 feet in height, shall not be located on the roof of the structure or building.
 - 5. If the equipment cabinet or structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 15% of the roof area.
- b. Performance and Design Standards. Equipment cabinet or structures shall comply with the following requirements which are deemed to be performance and design standards:
 - 1. In a front yard area or visible from a public street, the cabinet/structure shall be constructed as a building of an identical architectural design of surrounding buildings. An ornamental foundation planting shall be provided around the base of the building.
 - 2. In a side or rear yard area not visible from a public street, the cabinet/structure shall be screened by an evergreen hedge with an ultimate height no less than 12 feet and a planted height of at least six feet.
 - 3. If on a structure other than a tower, the equipment cabinet or structure must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structures so as to make the equipment structure as visually unobtrusive as possible.
 - 4. One light may be provided at the entrance of the equipment structure, provided that the light is attached to the structure, is focused downward and is switched so that the light is turned on only when workers are at the site.

5. Collocation facilities shall provide a single integrated and attached equipment building to be shared by all carriers. The building may have multiple access doors, each dedicated to each carrier; however, a single common entryway door is encouraged.
6. The equipment storage buildings or cabinets shall be sufficiently insulated so that any noise generated from the equipment shall not exceed the noise levels permitted by any ordinances of the Town of Guttenberg or laws or regulations of the State of New Jersey.
7. Equipment storage buildings or cabinets shall comply with all applicable building codes.

§ 28-31.10 Technical Consultants.
[Ord. No. 005-10 § I, 28-31.10]

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.
[Ord. No. 005-10 § I, 28-31.11]

- 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 17, 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 Right To Know Law or any other law or regulation pertaining to the dissemination of public records to any organization seeking to locate antennas within the jurisdiction of the governing authority provided, however, that the Planning Board is not, by disseminating such information, in any way representing or warranting that such sites are available or suitable.
4. Availability of An Alternative Suitable Site/Structure Analysis, if Applicable. A written report that sufficiently demonstrates the absence of any other available option that would comply with minimum separation distance requirements or conditional use standards of this 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 15 days prior to the scheduled public hearing.

2. Certification of Completeness. An application shall be complete for the purposes of commencing the applicable time period for action by the Board when so certified by the Board or its authorized designee. In the event that the Board or its designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon expiration of the forty-five-day period for the purposes of commencing the applicable time period unless:
 - (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 45 days of submission of the application.
3. Submission Requirement Waivers. The applicant may request that one or more of the submission checklist requirements be waived, in which event the Board or its designee shall grant or deny the request within 45 days. The application shall include a list of all requested submission waive items and items that are not applicable to the application. Nothing herein shall be construed as diminishing the applicant's obligation to offer sufficient proof during the application process that he or she is entitled to approval of the application.
4. Correction of Erroneous Information. The Board may subsequently require correction of any information found to be in error, and the submission of additional information not specified in this 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.
[Ord. No. 005-10 § I, 28-31.12]

- 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 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.
[Ord. No. 005-10 § I, 28-31.13]

- a. At such time that a licensed carrier plans to abandon or discontinue operation of a wireless telecommunications facility, such carrier shall notify the Town Clerk by certified United States Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the wireless telecommunications facility shall be considered abandoned if it is not operated for a continuous period of 12 months.
- b. The owner of any wireless telecommunications facility that is abandoned shall physically remove it within 90 days of receipt of notice from the Building Department notifying the owner of such abandonment. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. "Physically remove" shall include, but not be limited to:
 - 1. Removal of antennas, mount, equipment shelters and security barriers for the subject property.
 - 2. Proper disposal of waste materials from the site in accordance with local, County and State solid waste disposal regulations.

3. Restoring the location of the facility to its original and/or natural condition, except that any landscaping and grading shall remain in the after-condition as deemed appropriate by the Town Engineer.
- c. If a carrier does not physically remove the antenna or tower in accordance with this section, the Mayor and Council may order the physical removal of such antenna or tower at the owner's expense and lien the property for the costs associated therewith, inclusive of professional fees.

§ 28-31.14 Nonconforming Uses.
[Ord. No. 005-10 § I, 28-31.14]

- 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.
[Ord. No. 005-10 § I, 28-31.15]

- 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.

[Ord. No. 005-10 § I, 28-31.16]

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.
[Ord. No. 005-10 § I, 28-31.17]

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