

May 12, 2025

Pennington Planning Board
30 North Main Street
Pennington, NJ 08534



**Re: Recommended Ordinance Amendments
2023 Reexamination Report**

Dear Planning Board Members:

As part of the Board's 2023 Master Plan Reexamination Report, there were a number of specific changes recommended to the development regulations. Below, for your review, are amendments intended to address some of those recommendations, along with commentary as appropriate. The ordinance committee has met three times and reviewed the recommended changes, discussing each and arriving at final recommendations to be reviewed by the full Planning Board. As you will see, some of the recommendations from the reexamination report are noted as being better addressed as the Board prepares the Land Use Plan Element of the master plan in 2025.

Each of the specific recommendations as written in the reexamination report are provided in italicized font for reference. In cases where changes to the ordinance are proposed, the current wording of the specific section is provided and modifications are noted.

1. *Definitions – Borough Code §215-8. Many of the definitions in the zoning ordinance have not been updated in some time and should be reviewed and amended as necessary. Of particular note are definitions for cellar, basement, building height and structure, all of which have been implicated in recent applications and require clarification. New definitions may be added so the ordinance is more comprehensive. "The Complete Illustrated Book of Development Definitions" is considered the treatise on defining land use-related terms and should be consulted for guidance on an update of current definitions as well as those that may need to be added.*

Below are recommended amendments to the definitions section of the ordinance, §215-8. While the reexamination report suggested that additional definitions be added, those would be better addressed as part of the Land Use Plan Element update and in consultation with the Zoning Officer. These amendments address the more pressing issues we have encountered over the last few years and include other definitions that should be amended to provide consistency where needed.

- a. BASEMENT – A space, whether finished or not, having one-half or more of its floor-to-ceiling height above the average level of the adjoining ground and with a floor-to-ceiling height of not less than 7 feet. (This updates our definition to include the

minimum ceiling height required for a space to be considered “habitable” under the International Building Code (IBC).)

- b. CELLAR – A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground. A space with more than one half of its floor-to-ceiling height above the average grade of the adjoining ground that has a floor-to-ceiling of less than 7 feet is also a cellar. (This updates our definition to include the minimum ceiling height required for a space to be considered “habitable” under the International Building Code (IBC).)
- c. HALF STORY – A space under a pitched roof that has the line of intersection of the roof and wall face not more than three feet above the floor level and a floor-to-ceiling height of less than 7 feet. (This modifies the definition of half-story and removes it from the “STORY” definition below where it currently resides.)
- d. STORY - The vertical distance between the finished surface of a floor and the finished surface of the floor above it. Or, if there is no floor above, then the vertical distance between the finished surface of a floor and the ceiling above it. Basements shall be considered a story as shall attics not meeting the definition of half-story. (This amendment simplifies the prior definition by removing the qualifiers that follow the definition.)
- e. FLOOR AREA – The sum of the gross horizontal area of each story of a primary building or buildings, measured from the exterior face of the exterior walls and from the centerline of walls separating attached buildings.
- f. FLOOR AREA RATIO – The floor area of a primary building or buildings divided by the area of the property on which the primary building or buildings are situated.
- g. STRUCTURE – A combination of materials to form a construction for occupancy, use or ornamentation whether installed on, above, or below the surface of a parcel of land. (This definition is per the MLUL).
- h. BUILDING HEIGHT – The vertical distance from average finished grade to the top of the highest roof beams on a flat or shed roof, to the deck level on a mansard roof and the average distance between the eaves and the ridge level for gable, hip and gambrel roofs. Where this chapter provides for maximum height limitations by reference to a specified height and number of stories, the intent is to limit building height to those maximums. (This eliminates the requirement to measure building height to the top of any roof structure and is consistent with the building code definition. It also eliminates the requirement to calculate building height from finished grade 5’ from the foundation.)
- i. PARTIAL DESTRUCTION – Damage to a building or structure, whether voluntary or involuntary, to the extent that such damage constitutes less than 50 percent of the total floor area of such building or structure. (We also have the option to utilize costs that exceed 50% of the market value of the building or structure, but that seems to be more difficult to document and could be subjective.)
- j. PREVAILING SETBACK – The mean front yard setback of principal dwellings on the same side of the street located within the same zoning district within 500 feet in either direction.

- k. PATIO – A level area covered by a hard surface at finished grade and not covered by a permanent roof structure.
 - l. BACKUP GENERATOR – a device permanently installed on a property that supplies power to a home or business when electricity cannot be supplied by the grid due to a power outage. Backup generators shall be utilized only when power is not available from the grid and shall not be utilized as a permanent power source.
2. *The Municipal Land Use Law was amended in 2022 to include provisions requiring EV charging infrastructure for multifamily developments and parking areas. New provisions also exempt certain installations of EV charging stations and infrastructure from site plan approval and deem such use a permitted accessory use in all zoning districts within a municipality. A model ordinance has been provided by the Department of Community Affairs and the Board recommends these standards be incorporated into the zoning ordinance.*

We have adapted the DCA model ordinance to the Zoning Ordinance, and it is provided separately at the end of this document due to its length.

3. *Standby generators have become normal fixtures for many homes and commercial businesses in the Borough. The Board recommends standards be developed to ensure appropriate controls are in place regulating placement, setback and screening of these accessory structures. As the issue of air-conditioning compressors is already addressed in §215-66.1, amendment of this section to also address generators would be appropriate.*
- Below is the suggested change to the section dealing with air-conditioning compressors to incorporate backup generators, with changes tracked. A definition for backup generator has been added in Section 1 above in an attempt to make it clear that such devices are permitted only for times when the grid is down and are not to be utilized as a permanent source of power for the dwelling. It is also recommended that the application fees and escrow for applications related solely to air conditioning compressors and generators be reviewed and potentially reduced based on the limited scope of these matters.

- a. § 215-66.1 Air-conditioning compressors and backup generators.

Air-conditioning compressors and backup generators shall be permitted accessory uses in all zone districts. Air-conditioning compressors and backup generators shall be placed so as to conform to the setback requirements of the principal building of the property. A variance shall be required for placement of an air-conditioning compressor or backup generator in violation of required setbacks only if the air-conditioning compressor or backup generator is proposed closer to the property line than the existing principal building. Any air-conditioning compressor or backup generator located in the front yard must be visually screened from the street by evergreen vegetation or solid fence conforming to ordinance requirements. Air-conditioning compressors and backup generators shall be exempt from setback requirements if adjacent property is nonresidential or in a nonresidential zone.

4. *Article V of the zoning ordinance regulates nonconforming uses and structures. Presently the language in §215-52.B and §215-57 seems to intend to permit additions for nonconforming structures without the need for variance relief provided the degree of nonconformity is not increased. The Board should determine the intent of these sections and revise them as needed.*

As noted above, the language governing nonconforming uses and structures in two sections of the ordinance is unclear and requires clarification. Below are the suggested modifications to these sections, with changes tracked.

- a. § 215-52 Continuation of use of existing buildings.

Except as otherwise provided in this article, the lawful use of legally existing nonconforming buildings existing at the date of the adoption of this chapter may be continued although such use or building does not conform to the regulations specified by this chapter for the zone in which such building is located; provided, however, that:

A. No nonconforming lot shall be further reduced in size.

B. No nonconforming building shall be enlarged, extended or increased, provided, however, that alterations or enlargements that do not increase the degree of nonconformity related to required front, side or rear yard setbacks are permitted so long as such alteration or enlargement represents a 25% or less increase in the length of the building or portion of the building that is nonconforming. Increasing the degree of nonconformity by construction or alteration is considered to be a further reduction of already nonconforming front, side or rear yard setbacks, further increase of already nonconforming lot coverage or further increase in already nonconforming building height.

- b. § 215-57 Alterations.

A nonconforming building that is partially destroyed may be reconstructed to its original condition but not enlarged or extended unless in conformance with the requirements of §215-52.B. Nothing in this section shall limit the ability to reconstruct only a portion of a building that is partially destroyed provided previous nonconforming conditions that existed at the time of partial destruction are not exceeded and are made more conforming.

5. *Presently accessory structures such as sheds, garages and gazebos are regulated in §215-12. This section of the ordinance should be reviewed and amended to address garage height limitations and to potentially include separate setback requirements for at-grade accessory structure such as patios.*

The suggested changes to this section are noted below.

- a. § 215-12 Yard requirements for secondary buildings.

A. Not more than three accessory structures shall be permitted per lot and may include detached decks, sheds, pool houses, detached garages and gazebos.

Accessory structures must be located at least 10 feet from the principal structure, except as described in Subsection B.

B. Accessory structures that are attached to principal structures, via a nominal or substantial attachment, shall comply with required setbacks of the principal structure and shall be considered part of the principal structure.

C. Detached accessory structures, including detached decks, shall be located in the rear yard and shall conform to setbacks of not less than five feet from the side or rear yard.

D. Garages and pool houses shall be constructed of building materials that are consistent or otherwise compatible with the principal structure. Pool houses shall not exceed 300 square feet in floor area.

E. Garages shall not exceed a footprint of 750 square feet and shall have concrete or equivalent floors. The maximum height line measured at the ridge shall not exceed 25 feet in height. Garages shall have pitched roofs or match the roof form of the existing principal building. Areas above detached garages may be finished, but in no case used for a separate dwelling unit. Heating and half bathrooms are allowed, but cooking facilities are not permitted.

F. All garages attached to the principal structure shall be set back at least five feet from the front facade of the principal structure, and an attached garage facing the street shall not exceed two bays. Attached garages shall have pitched roofs or match the roof form of the existing principal building.

G. Sheds and gazebos shall not exceed 200 square feet in floor area. Small sheds and gazebos, i.e., 100 square feet in floor area or less, without permanent footings shall not require a building permit. Large sheds and gazebos, i.e., 101 square feet to 200 square feet in floor area, shall require a building permit whether they utilize permanent footings or not. The maximum height for all sheds and gazebos shall be 12 feet.

H. Section 215-16A shall not apply to accessory structures. (The section referred to, Slopes, was repealed in 2017 therefore this reference is no longer applicable.)

7. *The schedule of area, yard and building regulations should be amended to include setback requirements for existing attached homes in all zoning districts, particularly side yard setback standards and to include the Floor Area Ratio and Floor Area limits for each Zone. Consideration should be given to utilizing front yard setback standards in residential districts that are related to the prevailing setback, as many dwellings, particularly along North and South Main Street in the R-80 zone, do not meet current requirements.*

We suggest amending the schedule to modify note 3 and include new notes 6, 7, and 8, with note 6 appearing in the Front Yard column, note 7 in the Any Side Yard column (keeping note 3) and note 8 appearing in the Total Both Side Yards column. The term "prevailing setback" is added to the definitions section of the ordinance in Section 1, above.

3 Side yards of corner lots, adjacent to a side street, shall be equal to the required front yard, subject to note 6, below.

6 The required front yard shall be the lesser of prevailing setback or the front yard otherwise required in column No. 6.

7 For attached dwellings, the side yard for the common property line where a wall is shared shall be 0 feet.

8 For attached dwellings, the total side yard required shall be equal to column number 7, Any Side Yard.

8. *The issue of floor area and floor area ratio should be revisited in conjunction with the review of definitions in the zoning ordinance. Several recent applications have been reviewed related to maximum floor area, all of which were approved after appearing more than reasonable based on the character of the lots. Consideration also needs to be given to what areas of a house contribute to the calculation of floor area.*

Suggested changes to definitions in Section 1 are intended to address this issue.

9. *In recent years, the board has received a growing number of variance applications related to the creation of dwelling units over detached garages. The apparent goal of the Borough's one dwelling unit per lot limit is to prevent the creation of rental apartments. Typically, however, applicants are now seeking to create living spaces for family members, some of whom are elderly or disabled. One such variance application was recently granted. The board should discuss the intent of this rule and determine the conditions under which this use is acceptable. This should be included in future discussion about Accessory Dwelling Units.*

This issue will need to be discussed with the Board and addressed as part of the update to the Land Use Plan Element.

10. *Requirements in the ordinance related to lighting should be reviewed and a more comprehensive set of regulations should be adopted.*

This is more appropriately addressed as part of the update to the Land Use Plan Element and will require significant research. It may be prudent to assign this task to the Environmental Commission.

11. *Signage standards in the zoning ordinance should be reviewed and revised as necessary, including lighting related to signage and the use of neon and LED signs.*

This is more appropriately addressed as part of the update to the Land Use Plan Element and will require significant research and discussion by the Board.

12. *The issue of keeping poultry within the Borough should be considered to determine if regulations are appropriate.*

Below is an ordinance our office wrote for Pohatcong Township in Warren County, adapted to Pennington. We need to determine which Chapter of the Borough Code these requirements should reside, should the Board wish to recommend Mayor and Council implement regulations.

On properties other than those devoted to agricultural or horticultural use and eligible for farmland assessment, the following requirements shall be met.

- A. The keeping of chickens shall be prohibited on multiunit properties, including any property in common ownership as part of a homeowner's association or owned or maintained by a management company or landlord.
- B. The keeping of chickens shall be prohibited on nonresidential properties and residential properties that do not meet the minimum lot size for the zone district in which the property is located.
- C. A maximum of nine (9) chickens or poultry may be kept on any one property.
- D. Roosters shall be prohibited.
- E. Chickens shall be provided an enclosure which is covered, ventilated, and predator/rodent resistant. Said enclosure shall provide a minimum of four (4) square feet per bird when outdoor space of equal or greater space is provided or ten (10) square feet per bird where outdoor space of equal or greater space is not provided. Enclosures shall be located within rear yards only.
- F. Chickens and their enclosure shall be contained within an area completely enclosed by fencing a minimum of four (4) feet in height. Chickens shall not be permitted to roam freely outside of fenced areas.
- G. The enclosure and any fenced run shall be well drained so that there is no accumulation of moisture. The floors and walls of the enclosure shall be kept in a clean and sanitary condition, with all droppings collected at least weekly. Animal solid waste shall be kept in a covered and secured container until composted, applied as fertilizer or transported off-premises.
- H. All enclosures shall be a minimum of 10 feet from a side or rear lot line.
- I. Any exterior lighting proposed shall be shielded so as not to shine on adjacent properties.

13. Structures placed on properties to permit donation of clothing and other items is a recurring issue in the Borough. Potential regulations should be explored.

The intent of potential land use policy and subsequent regulations should be discussed with the Board and the Zoning Officer prior to enactment.

14. Review of whether standards should be implemented for driveways related to minimum and maximum width and setback from property lines.

This issue should be discussed by the Board and Zoning Officer prior to enactment of standards.

15. The Board recommends the exceptions to the requirement for site plan approval in §163-4 be reviewed and amended as necessary. The current exception in §163-4A creates a potentially subjective judgment and clarifying language is needed.

We suggest §163-4.A be modified as shown below, with changes tracked.

§ 163-4 Site plan approval required; exceptions.

Prior to the issuance of a building permit or certificate of occupancy for any development on a lot wholly or partly in the Borough, a site plan shall be reviewed by the Planning Board. No site plan review shall be required for:

A. A change in occupancy or use of any nonresidential structure where the Borough Zoning Officer has determined that the new use is a primary permitted use in the zone district in which the property is located, or that the new use represents a continuation of a legally existing nonconforming use or that the new use was previously approved by the Planning Board acting as a Board of Adjustment, and will not increase traffic to and from the site, inhibit site circulation or increase the number of required parking spaces; or

- 16. The Board recommends that the Council consider regulations related to the provision of wireless telecommunications service.*

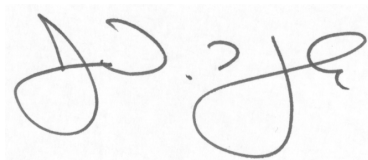
This issue should be discussed by the Board and Zoning Officer prior to enactment of standards.

- 17. The issues discussed in Section C above related to the COVID-19 pandemic should be considered as potential amendments to the zoning ordinance.*

This issue should be discussed by the Board and Zoning Officer prior to enactment of standards. Section C as noted above is located within the reexamination report adopted by the Board, and is attached for reference.

We look forward to meeting with the ordinance committee to discuss this correspondence. Should you wish to discuss this or any other matter, please feel free to contact us via e-mail at jkyle@kylemcmanus.com or by phone at 609-257-6706.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Kyle", written on a light-colored background.

James T. Kyle, PP/AICP
Borough Planner

Cc:

Ed Schmierer, Esq., Board Attorney (via e-mail)

Brandon Fetzer, PE, Board Engineer (via e-mail)

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**AN ORDINANCE
AUTHORIZING AND ENCOURAGING
ELECTRIC VEHICLE**

SUPPLY/SERVICE EQUIPMENT (EVSE) & MAKE-READY PARKING SPACES

This Ordinance sets forth procedures for the installation of Electric Vehicle Supply/Service Equipment (EVSE) and Make-Ready parking spaces and establishes associated regulations and other standards within the Borough of Pennington in Mercer County, New Jersey.

WHEREAS, supporting the transition to electric vehicles contributes to Pennington Borough's commitment to sustainability and is in the best interest of public welfare; and

WHEREAS, installation of EVSE and Make-Ready parking spaces encourages electric vehicle adoption; and

WHEREAS, the Borough of Pennington encourages increased installation of EVSE and Make Ready parking spaces; and

WHEREAS, adoption of this ordinance supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

WHEREAS, P.L. 2021, c.171, which Governor Murphy signed into law on July 9, 2021, requires EVSE and Make-Ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements; and

WHEREAS, the Borough of Pennington encourages greater ownership and use of electric vehicles, thus the Borough is amending the Zoning Ordinance to establish standards and regulations for the safe and efficient installation of EVSE and Make-Ready parking spaces at appropriate locations.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, County of Mercer, State of New Jersey, that Chapter 215, Zoning, of the Borough Code, Section 216 is hereby amended as follows:

§215-16 ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT

A. Purpose and Intent

The purpose and intent 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. This ordinance is intended to:

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

B. Definitions

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

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

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

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

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

Make-Ready Parking Space: means 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.).

C. Approvals and Permits

- (1) 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 structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70.
- (2) 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.

- (3) All EVSE and Make-Ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (4) The Borough Zoning Officer or Borough 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 Pennington Borough's land use regulations.
- (5) 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:
 - (a) 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;
 - (b) 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
 - (c) 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.
- (6) An application pursuant to Section 5. above shall be deemed complete if:
 - (a) the application, including the permit fee and all necessary documentation, is determined to be complete,
 - (b) a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - (c) a one-time written correction notice is not issued by the Borough Zoning Officer or Borough Engineer 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.
- (7) 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.

- (8) 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.

D. Requirements for New Installation of EVSE and Make-Ready Parking Spaces

- (1) 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:
 - (a) 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;
 - (b) 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
 - (c) 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.
 - (d) 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.
 - (e) 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.
- (2) As a condition of preliminary site plan approval, each application involving a parking lot or garage not covered in 1. above shall:
 - (a) Install at least one Make-Ready parking space if there will be 50 or fewer off-street parking spaces.
 - (b) Install at least two Make-Ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - (c) Install at least three Make-Ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - (d) 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.
 - (e) 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.
 - (f) In lieu of installing Make-Ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.

- (g) 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.
- (h) 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.

E. Minimum Parking Requirements

- (1) All parking spaces with EVSE and Make-Ready equipment shall be included in the calculation of minimum required parking spaces, pursuant to the parking standards set forth in each individual zone district.
- (2) 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.
- (3) All parking space calculations for EVSE and Make-Ready equipment shall be rounded up to the next full parking space.
- (4) 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.

F. Reasonable Standards for All New EVSE and Make-Ready Parking Spaces

- (1) 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.
- (2) Installation:
 - (a) 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.
 - (b) 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.

- (c) 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.
 - (d) 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.
- (3) EVSE Parking:
- (a) Publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE.
 - (b) 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.
 - (c) Public Parking. Pursuant to NJSA 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the municipality's police department and enforced in the same manner as any other parking. It shall be a violation of this Section to park or stand a non-electric vehicle in such a space, or to park an electric vehicle in such a space when it is not connected to the EVSE. Any non-electric vehicle parked or standing in a EVSE parking space, or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle as described in the general penalty provisions of the Pennington Borough Code. 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.
 - (d) Private Parking. The use of EVSE shall be monitored by the property owner or designee.
- (4) Safety
- (a) 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.
 - (b) Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with the Borough of Pennington's ordinances and regulations.
 - (c) Adequate EVSE protection including but not limited to 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.

- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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, Pennington Borough 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.

(5) Signs

- (a) 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.
- (b) 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.

- (c) 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.
- (d) 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:
 - 1) Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the municipality or owner/designee;
 - 2) Usage fees and parking fees, if applicable; and
 - 3) Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- (6) Usage Fees
 - (a) 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 equal to the electric rate in cents per kilowatt hour at the time of charging plus a fee equal to 10% of the rate charged in cents per kilowatt hour.
 - (b) This fee may be amended by a resolution adopted by the governing body.
 - (c) 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.

SEVERABILITY

If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

REPEAL OF PRIOR ORDINANCES

All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

EFFECTIVE DATE

This ordinance shall take effect after final passage and publication as provided by law.

ZONING

215 Attachment 2

Borough of Pennington

SCHEDULE OF AREA, YARD AND BUILDING REGULATIONS¹

[Amended 9-2-1985 by Ord. No. 398; 10-7-1985 by Ord. No. 401; 6-1-1992 by Ord. No. 514; 12-6-1999 by Ord. No. 99-14; 2-13-2002 by Ord. No. 2002-1; 12-20-2001 by Ord. No. 2001-6; 5-2-2011 by Ord. No. 2011-5; 9-8-2014 by Ord. No. 2014-17]

Zone		Minimum Lot Size				Minimum Yard Requirements (feet)						Maximum Building Height	Minimum Floor Area First Floor Multistory	Total	
								Total Both Side Yards							
		Interior Lots		Corner Lot						Front Yard	Any Side Yard ³				Rear Yard
Area (square feet)		Width (feet)	Area (square feet)		Width (feet)	No. 6	No. 7	No. 8	No. 9			No. 10	No. 11	No. 12	
Column No. 1		No. 2	No. 3	No. 4		No. 5	No. 6	No. 7	No. 8	No. 9	No. 10	No. 11	No. 12	No. 13	No. 14
R-80	Residence Zone	12,000	80	15,000		100	40	15	30	25	See Note 5.	3	35	900	1,200
R-100	Residence Zone	20,000	100	24,000		120	50	15	40	30	25%	3	35	1,000	1,400
R-A	Apartment-Townhouse Residence Zone	As specified for the R-80 Residence Zone.													
	Attached dwelling units	See Section § 215- 69D.													
O-R	Office Residence Zone	14,000	90	17,100		110	40	15	35	25	50%	2 ½	35	1,000	--
	Dwellings	As specified for the R-80 Residence Zone.													
TC	Town Center Zone	See § 215-71E.													
TCB	Town Center Buffer Zone	See §§ 215-71.1E and 215-71E.													
B-H	Highway Business Zone	60,000	260	67,500		225	100	30	75	50	60%	2	30	--	--
O-B	Office Building Zone	60,000	260	67,500		225	100	30	75	50	60%	2	30	--	--
P-O	Professional Office Zone	60,000	200	60,000		200	60	20	100	25	50% ⁴	2 ½	35	--	--
E-1	Education Zone	10 acres	100	--		--	50	20	50	50	30%	3	45	--	--
E-2	Education Zone	5 acres	100	--		--	50	20	50	50	30%	2 ½	35	--	--
MU-1	Mixed Use Zone	See § 215-77.									50%	2	25	--	--
MU-2	Mixed Use Zone	See § 215-78.									65%	2 ½	35	--	--
MR	Mixed Residence Zone	See § 215-78.1.													

NOTES:

- ¹ The requirements of this schedule shall apply to all uses within the respective zones, except for those specific uses enumerated thereunder.
- ³ Side yards of corner lots, adjacent to a side street, shall be equal to the required front yard, subject to note 6 below.
- ⁴ Total impervious surface.
- ⁵ Fifty percent of the first 6,000 square feet plus 30% of the next 6,000 square feet plus 20% of all area over 12,000 square feet.
- 6 The required front yard shall be the lesser of prevailing setback or the front yard otherwise required in column No. 6.
- 7 For attached dwellings, the side yard for the common property line where a wall is shared shall be 0 feet.
- 8 For attached dwellings, the total side yard required shall be equal to column number 7, Any Side Yard.