

**BOROUGH OF PENNINGTON  
ORDINANCE NO. 2011-5**

**AN ORDINANCE AMENDING AND SUPPLEMENTING  
CHAPTER 215, "ZONING", OF THE CODE OF THE BOROUGH OF  
PENNINGTON, COUNTY OF MERCER, STATE OF NEW JERSEY**

**WHEREAS**, the Planning Board of the Borough of Pennington has reviewed Borough Zoning Ordinances for needed changes in light of issues that have arisen over time in connection with zoning permits and other development approvals;

**WHEREAS**, Borough Council has favorably received the Planning Board's recommendations for amendments to the Zoning Ordinances and wishes to enact such changes;

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Pennington, that Chapter 215, entitled "Zoning", of the Code of the Borough of Pennington is hereby amended and supplemented as follows:

1. Section 215:8 of the Code, concerning definitions, is amended to add new definitions in alphabetical order and revised definitions as follows (with new language underscored and deleted language bracketed [ ]):

**BUILDING FOOTPRINT** – The perimeter of a building in contact with the ground, not including roof overhangs (eaves). Neither the building footprint nor roof overhangs may encroach into a setback area.

**GARAGES, PRIVATE** – A secondary building used in conjunction with a primary building which provides for the storage of motor vehicles and in which no occupation, business or services for profit [are carried on] may be conducted, and which may not be used as separate living quarters.

**SETBACK LINE** – A line drawn parallel with a street line or proposed street line or lot line and drawn at a given distance from that line. This line defines an area in which no building or portion of a building may be erected. [to the point of a building nearest to the street line or proposed street line or lot line.] The term "required setback" means a line that [is] has established a minimum horizontal distance from the street line or proposed street line or lot line and beyond which a building or part of a building is not permitted to extend. [toward the street line or proposed street line or lot line.] Unenclosed stoops, porches, decks, eaves and/or roof structures over stoops or porches may extend into the required front yard setback if they do not exceed 25 sq. ft in area.

**STORY** – [That portion of a building included between the upper surface of any floor and the upper surface of the next floor above it or,] 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 [it], then the [surface between the floor and the ceiling next above it.] vertical distance between the finished surface of a floor and the ceiling above it. For the purpose of this chapter:

- A. The [interior] underside of a roof shall not be considered a ceiling; rather, the underside of the highest horizontal surface separating the area above from the remainder of the structure below shall be considered the ceiling.
- B. Cellars and basements ordinarily shall not be considered stories when considering the height of a building except, however, that:
  - (1) A finished basement and/or cellar in nonresidential buildings shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter unless used and restricted solely for ancillary storage.
  - (2) A basement in a nonresidential or residential building, whether finished or not, shall be considered a story for the purposes of the height, floor area and parking requirements of this chapter when the distance from the undisturbed natural grade to the finished surface of the floor above the basement is more than [six] three feet for more than 50% of the total perimeter of the building or is more than [12] eight feet at any point.
- C. A half-story is the area under a pitched roof at the top of a building, the floor of which is at least three feet, but no more than six feet, below the line of intersection of the roof and wall face.
- D. The attic or area under a pitched roof at the top of a building shall be considered a full story for the purposes of this chapter when the head room or ceiling at a height of seven feet or more above the attic floor is more than one-third of the total area of the floor directly beneath and has access via [walk-up stairs] code-compliant stairway for habitable space from the floor below.

**[STORY, HALF** – That portion of a building under a gable, hip or gambrel roof, the wall plates

of which on at least two opposite exterior walls are not more than two feet above the floor of such half-story. A basement shall also be included as a half-story.]

2. Section 215-12, subsection E, concerning yard and other requirements for garages, is amended to change “in floor area” to “foot print”, to allow use of a second floor on detached garages without increasing the 750 sq. ft. footprint or allowed height of 20 feet, and to delete redundant language concerning attached garage setbacks addressed in another subsection, as follows:
  - E. Garages shall not exceed a foot print of 750 square feet [in floor area] and shall have concrete or equivalent floors. The maximum height line measured at the ridge shall not exceed 20 feet in height. Garages shall have pitched roofs. Areas above detached garages may be finished, but in no case used for business services or as separate living quarters. Heating and half bathrooms are allowed, but cooking facilities are not permitted. [All attached garages shall be set back not less than five feet from the front façade of the principal structure and not exceed two bays in the case of a front-loading garage.]
3. Section 215:15, concerning yard requirements, is amended to add a new subsection D, as follows:
  - A. All yards facing on a public street shall be considered front yards and shall conform to the minimum front yard requirements for the zone in which located. Corner lots shall provide the minimum front yard requirements for the respective zone for both intersecting streets, for both principal and accessory buildings.
  - B. Where a building lot has frontage on a street which the Master Plan or the Official Map of the Borough indicates is proposed for right-of-way widening, the required front yard area shall be measured from such proposed right-of-way line.
  - C. No front yard shall be used for open storage of boats, vehicles or any other equipment. This subsection should not be construed to prohibit the parking of a motor vehicle on a driveway located in a front yard.
  - D. In the R-80 Zone at least 50% of the front yard shall be lawn or landscaped and shall not be used for the parking of cars or other vehicles. In the R-100 Zone at least 70% of the front yard shall be lawn or landscaped and shall not be used for the parking of cars or other vehicles.
4. Section 215-66.1, concerning air-conditioning compressors, is amended as follows:

In all zones, air-conditioning compressors shall be placed so as to conform to the setback requirements of the principal structure of the property. A variance shall be required for placement of an air-conditioning compressor within a non-conforming setback only if the placement increases the existing nonconformity. Any air-conditioning compressor located in the front yard must be visually screened from the street. Air conditioning compressor units shall be exempt from setback requirements if adjacent property is commercial in a commercial zone.
5. Section 215.67, subsection D (2), concerning certain other provisions and requirements in the R-80 Residence Zone, is amended as follows:
  - D. (2) The floor area ratio shall not exceed [~~0.275~~] 0.265, and no dwelling unit shall exceed [~~4,500~~] 3,500 square feet of gross floor area.
6. **Section 215.68, subsection D (2) concerning certain other provisions and requirements in the R-100 Residence Zone, is amended as follows:**
  - D. (2) The floor area ratio shall not exceed 0.25, and no dwelling unit shall exceed [~~6,500~~] 4,000 square feet of gross floor area.
7. Section 215-71, subsections E (4) and (6), concerning certain regulations applying to the Town Center Zone, are amended as follows:
  - E. (4) Rear yard setback. The minimum rear yard building setback shall be the less restrictive of that existing on the date of adoption of the ordinance first creating the Town Center Zoning District or [~~1 ½ feet for each foot of building height, but not less than 50 feet~~] 25 ft. The setback shall be 50 feet where the rear yard abuts a residential district or a mixed use residential district.
  - (6) Lot Coverage. Lot coverage shall not exceed [~~60%~~] 80%.
8. Section 215-73, concerning the O-B Office (Building) Business Zone, is amended in subsection A to add educational uses as permitted primary uses, as follows:
  - A. Permitted primary uses.
    - (1) Executive or administrative, general business and professional offices.

- (2) Technical training centers, provided all instruction is conducted indoors.
- (3) Child-care centers licensed by the Department of Human Services pursuant to P.L. 1983, c. 492 (N.J.S.A. 30:5B-1 et seq.).

**(4) Educational Uses**

9. Section 215-89, concerning home occupations, is amended to delete subsection G, thereby, eliminating the requirement of site plan approval, as follows:

Home occupations shall be subject to the following:

**[G. The applicant shall apply for and receive site plan approval from the Planning Board in accordance with the applicable requirements of Chapter 163, Site Plan Review.]**

10. Section 215 Attachment 2, the SCHEDULE OF AREA, YARD AND BUILDING REGULATIONS, is amended to increase Maximum Building Height for the R-80 and R-100 Zones from 2 ½ stories to 3 stories.
11. This ordinance shall be effective upon passage and publication as provided by law.

Introduced: April 4, 2011  
Advertised: April 14, 2011  
Public Hearing: May 2, 2011  
Adoption: May 2, 2011  
Final Publication: May 12, 2011

ATTEST:

APPROVED:

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Elizabeth Sterling, Borough Clerk

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Anthony Persichilli, Mayor