

TOWN OF PENNINGTON GAP, VIRGINIA

ZONING ORDINANCE

Whereas, by act of the General Assembly of Virginia as provided in Chapter 22, Article 7, Sections 15.2-2280 through 15.2-2316, Code of Virginia and amendments thereto, the governing body of any municipality may, by ordinance, divide the territory under its jurisdiction into districts of such number, shape, and area as it may deem best suited to carry out the purposes of this article, and in each district it may regulate, restrict, permit, prohibit, and determine the following:

- (a) The use of land, buildings, structures, and other premises for agricultural, commercial, industrial, residential, flood plain, and other specific uses;
- (b) The size, height, area, bulk, location, erection, construction, reconstruction, alteration, repair, maintenance, razing, or removal of structures;
- (c) The areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, including variations in the sizes of lots based on whether a public or community water supply or sewer system is available and used; and
- (d) The excavation or mining of soil or other natural resources.

Therefore, be it ordained by the Town Council of Pennington Gap, Virginia, for the purpose of promoting the health, safety, or general welfare of the public and of further accomplishing the objectives of Section 15.2-2280, that the following be adopted as the zoning ordinance of Pennington Gap, Virginia, together with the accompanying map. This ordinance has been designed to give reasonable consideration to each of the following purposes where applicable: (a) to provide for adequate light, air, convenience of access, and safety from fire, flood, and other dangers; (b) to reduce or prevent congestion in the public streets; (c) to facilitate the creation of a convenient, attractive, and harmonious community; (d) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, schools, parks and other public requirements; (e) to protect against destruction of or encroachment upon historic areas; (f) to protect against one or more of the following; overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, panic, or other dangers; (g) to encourage economic development activities that provide desirable employment and enlarge the tax base; and (h) to provide for the preservation of agricultural and forest lands.

ARTICLE 1 – DEFINITIONS

For the purpose of this ordinance, certain words and terms are defined as follows. Words used in the present tense include the future. Words in the singular include the plural, and the plural includes the singular.

- 1-1 Abattoir: A commercial slaughter house.
- 1-2 Accessory Use or Structure: A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or building.
- 1-3 Acreage: A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.
- 1-4 Administrator, The: The official charged with the enforcement of the zoning ordinance. He may be any appointed or elected official who is by formal resolution designated to the position by the governing body. He may serve with or without compensation as determined by the governing body.
- 1-5 Agriculture: The tilling of the soil, the raising of crops, horticulture, forestry, and gardening.
- 1-6 Alteration: Any changes in the total floor area, use, adaptability, or external appearance of an existing structure.
- 1-7 Apartment House: A building used or intended to be used as the residence of three (3) or more families living independently of each other.
- 1-8 Automobile Graveyard: Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are place, located, or found.
- 1-9 Basement: A story having part but not more than one-half (1/2) of its height below grade. A basement shall be counted ad a story for purpose of height regulations, if it is used for business purposes, or for dwelling purposed by other than a janitor employed on the premises.
- 1-10 Boarding House: A building where, for compensation, lodging and meals are provided for at least five (5) and up to fourteen (14) persons.
- 1-11 Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattels.
- 1-12 Building Accessory: A subordinate structure customarily incidental to and located upon the same lot occupied by the main structure. No such accessory structure shall be used for housekeeping purposes.

- 1-13 Building Height of: The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof; to the deck line of a mansard roof; or the mean height level between the eaves and ridge of a gable, hip, or *gambrel* roof. For *buildings* set back from the street line, the height shall be measured from the average elevation of the ground surface along the front of the building.
- 1-14 Building Main: The principal structure or one (1) of the principal buildings on a lot, or the building or one (1) of the principal buildings housing the principal use on the lot.
- 1-15 Cellar: A story having more than one-half (1/2) of its height below grade and which may not be occupied for dwelling purposes.
- 1-16 Commission, The: The Planning Commission of Pennington Gap, Virginia.
- 1-17 Dairy: A commercial establishment for the manufacture and sale of dairy products.
- 1-18 District: Districts as referred to in the State Code, Section 15.2-2280.
- 1-19 Dwelling: Any structure which is designed for use for residential purposes, except hotels, boarding houses, lodging houses, tourist cabins, apartments, automobile trailers, and mobile homes.
- 1-20 Dwelling, Multiple-Family: A structure arranged or designed to be occupied by more than one (1) family.
- 1-21 Dwelling, Two-Family: A structure arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units.
- 1-22 Dwelling, Single-Family: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit. Excludes manufactured home as defined.
- 1-23 Dwelling Unit: One (1) or more rooms in a dwelling-designed for living or sleeping purposes, and having at least one (1) kitchen.
- 1-24 Dump Heap (Trash Pile): Any area of one hundred (100) square feet or more lying within one thousand (1000) feet of a state highway, a residence, dairy barn, or food handling establishment where trash, garbage, or other waste or scrap material is dumped or deposited without being covered by a sanitary fill.
- 1-25 Family: One (1) or more persons occupying a premises and living in a single dwelling unit, as distinguished from an unrelated group occupying a boarding house, lodging house, tourist home, or hotel.
- 1-26 Family Care Home, Foster Home or Group Home: A residential structure established to serve mentally retarded or other developmentally disabled persons, not related by blood or marriage.
- 1-27 Frontage: The minimum width of a lot measured from one (1) side lot line lot the other along a straight line on which no point shall be farther away

from the street upon which the lot fronts than the building setback line as defined as required herein.

- 1-28 Garage, Private: Accessory building designed or used for the storage of not more than three (3) automobiles owned and used by the occupants of the building to which it is accessory. On a lot occupied by a multiple-unit dwelling, the private garage may be designed and used for the storage of one and one-half (1 1/2) times as many automobiles as there are dwelling units.
- 1-29 Garage, Public: A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling, or, storing motor-driven vehicles.
- 1-30 Golf Course: Any golf course, publicly or private owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.
- 1-31 Golf Driving Range: A limited area on which golf players do not walk, but onto which they drive golf balls from a central driving tee.
- 1-32 Governing Body: The Town Council of Pennington Gap, Virginia.
- 1-33 Guest Room: A room which is intended or designed to be occupied, or which is occupied, by one (1) or more guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded.
- 1-34 Historical Area: An area indicated on the zoning map to which the provisions of the ordinance apply for protection of a historical heritage.
- 1-35 Home Garden: A garden in a residential district for the production of vegetable, fruits, and flowers generally for use and/or consumption by the occupants of the premises.
- 1-36 Home Occupation: An occupation carried on by the occupant of a dwelling as secondary use in connection with which there is no display and where no one is employed other than members of the family residing on the premises, such as the rental of rooms to tourists, the preparation of food products for sale, and similar activities; professional offices such as medical, dental, legal, engineering, and architectural conducted within a dwelling by the occupant.
- 1-37 Hotel: A building designed or occupied as the more or less temporary abiding place for fourteen (14) or more individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.
- 1-38 Junk Yard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.
- 1-39 Kennel: Any place in which more than three (3) dogs more than six (6) months of age are kept or any number of dogs are kept for the purpose of

sale or rental or in connection with boarding, care, or breeding, for which any fee is charged.

- 1-40 Lot: A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width, and lot areas as are required by this ordinance, and having frontage upon a street, either shown on a plat or record or considered as a unit of property and described by metes and bounds.
- 1-41 Lot, Corner: A lot abutting on two (2) or more streets at their intersection. Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.
- 1-42 Lot, Depth of: The average horizontal distance between the front and rear lot lines.
- 1-43 Lot, Double Frontage: An interior lot having frontage on two (2) streets.
- 1-44 Lot, Interior: Any lot other than a corner lot.
- 1-45 Lot, Width: Shall mean the width of any lot at the setback line. Calculated by measuring back a uniform distance from the street line as required by the setback regulation. If the street line curves or angles, then the setback line shall also curve or angle uniformly with the street line and the lot width shall be calculated along the said curve or angle setback line.
- 1-46 Lot of Record: A lot which has been recorded in the clerk's office of the circuit court.
- 1-47 Manufacturer and/or Manufacturing: The processing and/or converting of raw, unfinished materials, or product, or either of them, into articles or substances of different character, or for use for a different purpose.
- 1-48 Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is more than eight (8) feet but less than twenty four (24) feet in width or forty feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. (Trailer)
- 1-48A Manufactured Home Park or Subdivision: Any area designed to accommodate five (5) or more manufactured homes intended for residential use where residence is in manufactured home exclusively. (Trailer)
- 1-49 Modular Home - A structure placed on a permanent foundation and is at least 24 feet in width. (Double Wide)
- 1-50 Motor Home: Fully self-contained unit which is built on a truck or bus chassis and designed as temporary living accommodations for recreation, camping, and travel use.

- 1-51 Nonconforming Lot: An otherwise legally platted lot that does not conform to the minimum area or width requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.
- 1-52 Nonconforming Activity: The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.
- 1-53 Nonconforming Structure: An other otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage, or other area regulations of this ordinance, or is designed or intended for a use that does not conform to the use regulations of this ordinance for the district in which it is located, either at the effective date of this ordinance or as a result of subsequent amendments to the ordinance.
- 1-54 Off-Street Parking Area: Space provided for vehicular parking outside the dedicated street right-of-way.
- 1-55 Public Water and Sewer System: A water or sewer system owned and operated by the Town of Pennington Gap, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission, and subject to special regulations as herein set forth.
- 1-56 Recreational Vehicle: Vehicular-type structure designed as temporary living accommodations for recreation, camping, and travel use. There are four (4) basic types of recreational vehicles—travel trailers, motor homes, truck campers, and camping trailers.
- 1-57 Required Open Space: Any space required in any front, side, or rear yard.
- 1-58 Restaurant: Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops, or refreshment stands.
- 1-59 Retail Stores and Shops: Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood, and lumber yards) such as the following which will serve as illustration: drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique store and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop, and beauty shop.
- 1-60 Setback: The minimum distance by which any building or structure must be separated from the front lot line.
- 1-61 Sign: Any display of any letters, words, numerals, figures, devices, emblems, pictures, or any parts or combinations thereof, making anything known, where such display be made on, attached to, or as a part of a structure, surface, or any other thing including, but not limited to, the ground, any rock, tree, or other natural object, which display is visible beyond the boundaries of the parcel of land on which the same is made. A

display of less than one (1) square foot in any area is excluded from this definition.

Signs as described in this section shall be permitted by conditional use as approved by the governing body.

- 1-61-1 Business: A sign which directs attention to a product, commodity, or service available on the premises.
- 1-61-2 Home Occupation: A sign not exceeding four (4) square feet in area directs attention to a product, commodity, or service available on the premises, but which product, commodity, or service is clearly a secondary use of the dwelling.
- 1-61-3 General Advertising: A sign which directs attention to a product, commodity, or service not necessarily available on the premises.
- 1-61-4 Location: A sign which directs attention to the approximate location of an establishment from which the advertised produce may be obtained.
- 1-61-5 Directional: A direction sign is one (1) (one end of which may be pointed or on which an arrow may be painted) indicating the direction to which attention is called, four (4) square feet or less in the area, giving the name only of the farm or business responsible for the erection of same.
- 1-61-6 Identification: One (1) sign, not exceeding sixteen (16) feet in area, for the purpose of showing the name and use of a convent, monastery, seminary, subdivision, church, country club, sanitarium, cemetery, children's home, orphanage, fraternal organization, hospital, or other similar establishment, when such use is permitted in a residence zone as specified in this article and such sign is erected or displayed on the property as identified.
- 1-62 Sign Structure: Includes the supports, uprights, bracing, and framework of any structure, be it single-faced, double-faced, v-type, or otherwise exhibiting a sign.
- 1-63 Sign, Temporary: A sign applying to a seasonable or other brief activity such as, but not limited to, summer camps, horse shows, auctions, or sale of land. Temporary signs shall conform in size and type to directional signs.
- 1-64 Store: See Item 1-59, Retail Stores and Shops.
- 1-65 Story: That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there be no floor above it, the space between the floor and the ceiling next above it.
- 1-66 Story, Half: A space under a sloping roof, which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use.

- 1-67 Street, Road: A public thoroughfare which affords principal means of access to abutting property.
- 1-68 Street Line: The dividing line between a street or road right-of-way and the contiguous property.
- 1-69 Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings, buildings, signs, etc.
- 1-70 Tourist Court, Auto Court, Motel, Cabins, or Motor Lodge: One (1) or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.
- 1-71 Tourist Home: A dwelling where only lodging is provided for compensation for up to fourteen (14) persons (in contradistinction to hotels and boarding houses) and open to transients.
- 1-72 Travel Trailer: Vehicular structure mounted on wheels which are designed as temporary living accommodations for recreation, camping, and travel use. Can be easily towed by automobile or small truck and does not require special highway movement permits.
- 1-73 Truck Camper: Portable structure designed to be loaded onto or affixed to the bed or chassis of a truck. Designed to be used as temporary living accommodations for recreation, camping, and travel use.
- 1-74 Use, Accessory: A subordinate use customarily incidental to and located upon the same lot occupied by the main use.
- 1-75 Variance: A variance is a reasonable deviation from those provisions regulating the size or area of a lot or parcel of a land or the size, area, bulk, or location of a building or structure when the strict application of the ordinance would result in unnecessary or unreasonable hardship to the property owner, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the intended spirit and purpose of the ordinance, and would result in substantial justice being done.
- 1-76 Wayside Stand, Roadside Stand, Wayside Market: Any structure or land used for the sale of agricultural or horticultural produce, livestock, or merchandise produced by the owner or his family on their farm.
- 1-77 Yard: An open space on a lot other than a court unoccupied and unobstructed from the ground upward, except as otherwise provided herein.
- 1-77-1 Front: An open space on the same lot as a building between front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.

1-77-2 Rear: An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.

1-77-3 Side: An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

For the purpose of this ordinance, the incorporated area of Pennington Gap, Virginia is hereby divided into the following districts:

Residential R-1
Public/Semi-Public P-1
Commercial C-1
Industrial M-1

The uses in each district are hereby considered cumulative, in that any use in district R-1 is allowable in P-1, C-1, and M-1. Any use in district P-1 is allowable in C-1 and M-1. Any use in C-1 is allowable in M-1.

ARTICLE 2 - RESIDENTIAL DISTRICT R-1

Statement of Intent

This district is composed of certain quiet, low-density areas plus certain open areas where similar residential development appears likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where there are children, and to prohibit all activities of a commercial nature. To these ends, development is limited to relatively low concentration; and permitted uses are limited basically to single-unit dwellings providing homes for the residents plus certain additional uses, such as schools, parks, churches, and certain public facilities that serve the residents of the district.

2-1 USE REGULATIONS

In Residential District R-1, structures to be erected or land to be used shall be for one (1) or more of the following uses:

- 2-1-1 Agriculture.
- 2-1-2 Single-family dwellings.
- 2-1-3 Family care home, foster home, or group home.
- 2-1-4 Schools, public and private.
- 2-1-5 Churches.
- 2-1-6 Parks and playgrounds.

- 2-1-7 Home occupations.
- 2-1-8 Off-street parking as required by this ordinance.
- 2-1-9 Accessory buildings permitted as defines; however, garages or other accessory structures such as carports, porches, and stoops attached to the main building shall be considered part of the main building. No accessory building may be closer than ten (10) feet to any property line.
- 2-1-10 Public utilities: poles, distribution lines, distribution transformers, pipes, meters, and other facilities necessary for the provision and maintenance of public utilities, including water and sewerage facilities. Transmission lines, transmission towers, and electrical substations are not deemed necessary facilities under this section.
- 2-1-11 Church bulletin boards, and church identification signs for *church activities only*.
- 2-1-12 Home occupation signs.
- 2-1-13 Real estate signs.
- 2-1-14 Temporary signs.
- 2-1-15 Government offices.
- 2-1-16 Designated Mobile Home Lots

2-2 AREA REGULATIONS

- 2-2-1 For lots containing or intended to contain a single permitted use served by public water and sewer, the minimum lot area shall be twelve thousand (12,000) square feet.
- 2-2-2 For lots containing or intended to contain a single permitted use served by individual water and sewerage systems, the minimum lot area shall be twenty thousand (20,000) square feet. The required area for any such use shall be approved by the health official. The Administrator may require a greater area if considered necessary by the health official.

2-3 SETBACK REGULATIONS

Structures shall be located twenty-five (25) feet or more from any street right-of-way which is fifty (50) feet or greater in width, or fifty (50) feet or more from the center of any street right-of-way less than fifty (50) feet in width. This shall be known as the "setback line."

2-4 FRONTAGE REGULATIONS

For permitted uses the minimum lot width at the setback line shall be one hundred (100) feet or more.

2-5 YARD REGULATIONS

- 2-5-1 Side – the minimum side yard for each main structure shall be ten (10) feet.

2-5-2 Rear – Each main structure shall have a rear yard of twenty-five (25) feet.

2-6 HEIGHT REGULATIONS

Building may be erected up to thirty-five (35) feet in height from grade except that:

2-6-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

2-6-2 Church spires, belfries, cupolas, monuments, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

2-7 SPECIAL PROVISIONS FOR CORNER LOTS

2-7-1 Of the two (2) sides of a corner lot, the front shall be deemed to be the shortest of the two (2) sides fronting on streets.

2-7-2 The side yard on the side facing the side street shall be twenty (20) feet or more for both main and accessory building.

ARTICLE 3 - Public/Semi-Public P-1

Statement of Intent

This district covers that portion of the community intended for the assembly of the public on public property or public use facilities. These include such uses as parks, police department, fire department, sewer plant, government agencies, churches, doctor's offices, schools, and cemeteries.

3-1 REGULATIONS

In Public/Semi-Public P-1, structures to be erected or land to be used shall be for one (1) or more of the following uses:

3-1-1 Parks and Playgrounds

3-1-2 Police Department

3-1-3 Fire Department

3-1-4 Government Agencies

3-1-5 Churches

3-1-6 Schools, public and private

3-1-7 Cemeteries

3-1-8 Doctor's Offices

3-1-9 Libraries

3-2 AREA REGULATIONS

None, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

3-3 SETBACK REGULATIONS

Buildings shall be located ten (10) feet or more from any street right-of-way which is fifty (50) feet or greater in width or thirty-five (35) feet or more from the center line of any street right-of-way less than fifty (50) feet in width, except signs advertising sale or rent or premises may be erected up to the property line, This shall be known as the "setback line." Building and structures and billboard signs shall be located ten (10) feet from property lines and one additional foot of setback for each additional foot of height. *If adjoining building is located along the sidewalk, setbacks can be waived with a conditional use permit.

3-4 FRONTAGE AND YARD REQUIREMENTS

For permitted uses, the minimum side yard or rear yard adjoining or adjacent to a residential district shall be twenty-five (25) feet.

3-5 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

- 3-5-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

ARTICLE 4 - COMMERCIAL DISTRICT C-1

Statement of Intent

This district covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access and is characterized by constant heavy traffic, and by noise of congestion of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, newspaper offices, printing presses, restaurants, taverns, garages, and service stations, located mostly on primary highway arteries.

4-1 REGULATIONS

In Commercial District C-1, structures to be erected or land to be used shall be for one (1) or more of the following uses:

- 4-1-1 Animal hospital or clinic with a conditional use permit.
- 4-1-2 Antique and gift shops.
- 4-1-3 Apartments.
- 4-1-4 Automobile or truck sales, service and repair, including body or fender repair, but not auto salvage or junk.
- 4-1-5 Bakeries.
- 4-1-6 Car wash.
- 4-1-7 Churches.
- 4-1-8 Clubs and lodges.
- 4-1-9 Drive-in restaurants and food sales.
- 4-1-10 Drug store.
- 4-1-11 Dry cleaners.
- 4-1-12 Farm supply, feed and seed stores (with storage under cover).
- 4-1-13 Financial institutions.
- 4-1-14 Funeral homes.
- 4-1-15 Furniture refinishing and repair including upholstering cabinet and furniture making.
- 4-1-16 Furniture stores.
- 4-1-17 Home appliance sales and service.
- 4-1-18 Hospitals, with a conditional use permit.
- 4-1-19 Hotels, motels, and inns.
- 4-1-20 Laundries.
- 4-1-21 Laundromat with a conditional use permit.
- 4-1-22 Libraries.
- 4-1-23 Lumber and building supply (with storage under cover).
- 4-1-24 Machinery sales and service with a conditional use permit.
- 4-1-25 Methadone/Methadone Type Clinics - Permitted if more than 1000 feet from any road, school, church, or day care center - measured in a straight line.

- 4-1-26 Office buildings including government offices.
- 4-1-27 Professional Offices with a conditional use permit
- 4-1-28 Public utilities.
- 4-1-29 Restaurants.
- 4-1-30 Retail food stores.
- 4-1-31 Service stations (with major repair under cover).
- 4-1-32 Sexually Oriented Business - Permitted if more than 1000 feet from any road, school, church, or day care center - measured in a straight line.
- 4-1-33 Theaters, assembly halls.
- 4-1-34 Tourist homes.
- 4-1-35 Wholesale and processing not objectionable because of dirt, noise, or odors with a conditional use permit.
- 4-1-36 Off-street parking as required by this ordinance.
- 4-1-37 Public billiard parlors and pool rooms, bowling alleys, dance halls, and similar forms of public amusement only after a public hearing shall have been held by the governing body on an application submitted to the body for such use. The governing body may request that the commission submit a recommendation to them concerning such use applications. In approving any such application, the governing body may establish such special requirements and regulations for the protection of adjacent property, set the hours of operation, and make requirements as they may deem necessary in the public interest.
- 4-1-38 Business signs and billboard signs with a conditional use permit
- 4-1-39 Directional signs.
- 4-1-40 Church bulletin boards and church identification signs for church activities.
- 4-1-41 Photographic studios.
- 4-1-42 Beauty salons.
- 4-1-43 Single family dwellings.

4-2 AREA REGULATIONS

None, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

4-3 SETBACK REGULATIONS

Buildings shall be located ten (10) feet or more from any street right-of-way which is fifty (50) feet or greater in width or thirty-five (35) feet or more from the center line of any street right-of-way less than fifty (50) feet in width, except signs advertising sale or rent or premises may be erected up to the property line, This shall be known as the "setback line." Building and structures and billboard signs shall be located ten (10) feet from property lines and one additional foot of setback for each additional foot of height. *If adjoining building is located along the sidewalk, setbacks can be waived with a conditional use permit.

4-4 FRONTAGE AND YARD REQUIREMENTS

For permitted uses, the minimum side yard or rear yard adjoining or adjacent to a residential district shall be twenty-five (25) feet.

4-5 HEIGHT REGULATIONS

Buildings may be erected up to thirty-five (35) feet in height from grade except that:

4-5-1 The height limit for structures may be increased up to forty-five (45) feet and up to three (3) stories provided each side yard is ten (10) feet, plus one (1) foot of side yard for each additional foot of building height over thirty-five (35) feet.

4-5-2 Church spires, belfries, cupolas, monuments, cooling towers, municipal water towers, chimneys, flues, flag poles, television antennae, and radio aerials are exempt. Parapet walls may be up to four (4) feet above the height of the building on which the walls rest.

4-6 REQUIREMENTS FOR PERMITTED USES

Before a building permit shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, detailed site plans in sufficient details to show the operations and processes shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for their recommendations. Modification of the plans may be required.

ARTICLE 5 - INDUSTRIAL LIMITED DISTRICT M-1

Statement of Intent

The primary purpose of this district is to permit certain industries, which do not in any way detract from residential desirability, to location in any area adjacent to residential uses. The limitations on (or provisions relating to) height of building, horsepower, heating, flammable liquids or explosives, controlling emission of fumes, odors, and or noise, and landscaping, and the number of persons employed are imposed to protect and foster adjacent residential desirability while permitting industries to locate near a labor supply.

5-1 REGULATIONS

- 5-1-1 In Industrial Limited District M-1, any structure to be erected or land to Assembly of electrical applications, electronic instruments and devices, radios and phonographs. Also the manufacture of small parts such as coils, condensers, transformers, and crystal holders.
- 5-1-2 Automobile assembling, paintings, upholstering, repairing, rebuilding, reconditioning, body and fender work, truck repairing or overhauling, tire recapping, battery or automotive parts manufacture.
- 5-1-3 Blacksmith shop, welding or machine shop, excluding punch presses exceeding forty (40) ton rated capacity and drop hammers.
- 5-1-4 Boat building.
- 5-1-5 Building material sales yards, plumbing supplies storage, lumber mills.
- 5-1-6 Cabinets, furniture, and upholstery shops.
- 5-1-7 Coal and wood yards, lumber yards.
- 5-1-8 Contractors' equipment storage yards or plants, or rental of equipment commonly used by contractors.
- 5-1-9 Junk storage (enclosed with special use permit)
- 5-1-10 Laboratories – Pharmaceutical and/or medical with a conditional use permit.
- 5-1-11 Manufacture, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, previous or semiprecious metals or stones, shell, straw, textiles, wood, yarn, and paint.
- 5-1-12 Manufacture, compounding, processing, packaging, or treatment of such products as bakery goods, candy, cosmetics, dairy products, perfumes, perfumed toilet water, toiletries and food products, and ice manufactures.
- 5-1-13 Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.
- 5-1-14 Manufacture of pottery and figurines or other similarly ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- 5-1-15 Monumental stone works.
- 5-1-16 Petroleum and gas storage and distribution with a conditional use permit.
- 5-1-17 Veterinary or dog or cat hospital, kennels.
- 5-1-18 Wholesale businesses, storage warehouses.
- 5-1-19 Off-street parking as required by this ordinance.

5-1-20 Public utility generating, booster, or relay stations, transformer substations, transmission lines and towers, and other facilities for the provision and maintenance of public utilities, including railroads and facilities, and water and sewerage installations.

5-1-21 General advertising signs with a conditional use permit.

5-1-22 Location signs.

5-1-23 Radio, telephone and television transmission or receiving station or tower; tower more than 100 feet in height to be granted on conditional use permit.

5-2 REQUIREMENTS FOR PERMITTED USES

5-2-1 Before a building shall be issued or construction commenced on any permitted use in this district, or a permit issued for a new use, the plans, in sufficient detail to show the operations or processes, shall be submitted to the Zoning Administrator for study. The Administrator may refer these plans to the Planning Commission for their recommendations. Modification of the plans may be required.

5-2-2 Landscaping may be required within any established or required front setback area. The plans and execution must take into consideration traffic hazards, landscaping may be permitted up to a height of three (3) feet, and to within fifty (50) feet from the corner of any intersecting streets.

5-2-3 Sufficient area shall be provided (a) to adequately screen permitted uses adjacent business and residential district and (b) for off-street parking of vehicles incidental to the industry, its employees, and clients.

5-2-4 The Administrator shall act on any application received within thirty (30) days after receiving the application. If formal notice in writing is given to the applicant, the time for action may be extended for a thirty (30) day period. Failure on the part of the Administrator to act on the application within the established time limit shall be deemed to constitute approval of the application.

5-3 AREA REGULATIONS

None, except for permitted uses utilizing individual sewage disposal systems; the required area for any such use shall be approved by the health official.

5-4 SETBACK REGULATIONS

Buildings shall be located ten (10) feet or more from any street right-of-way which is fifty (50) feet or greater in width or thirty-five (35) feet or more from the center line of any street right-of-way less than fifty (50) feet in width, except that signs advertising sale or rent of premises may be erected up to the property line. This shall be known as the "setback line."

5-5 FRONTAGE AND YARD REGULATIONS

For permitted uses, the minimum side yard adjoining or adjacent to a residential district shall be twenty-five (25) feet.

5-6 HEIGHT REGULATIONS

Buildings may be erected up to a height of thirty-five (35) feet. For buildings over thirty-five (35) in height, approval shall be obtained from the Administrator. Chimneys, flues, cooling towers, flag poles, radio or communication towers, or their accessory facilities not normally occupied by workmen excluded from this limitation. Parapet walls are permitted up to four (4) feet above the limited height of the building on which the walls rest.

5-7 COVERAGE REGULATIONS

Buildings or groups of buildings with their accessory buildings may cover up to seventy percent (70%) of the area of the lot if setback requirements are met.

6-1 CONTINUATION

- 6-1-1 If at the time of enactment of this ordinance, any legal activity is being pursued, or any lot or structure is being legally utilized in a manner or for the purpose which does not conform to the provisions of this ordinance, such manner of use or purpose may be continued as herein provided.
- 6-1-2 If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.
- 6-1-3 If any nonconforming use (structures or activity) is discontinued for a period exceeding two (2) years after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance. Intent to resume active operations shall not affect the foregoing.
- 6-1-4 Temporary seasonal nonconforming uses that have been in continual operation for a period of two (2) years or more prior to the effective date of this ordinance are excluded.
- 6-1-5 All dwellings and their accessory structures erected prior to the enactment of this ordinance on October 1, 2008, shall be exempt as to area, setback, frontage and yard regulations if their present owners so desire.

6-2 PERMITS

- 6-2-1 All nonconforming uses shall be issued a zoning permit and a certificate of occupancy within sixty (60) days after the adoption of this ordinance.
- 6-2-2 The construction or use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this ordinance may proceed, provided such building is completed within one (1) year, or such

use of land established within thirty (30) days after the effective date of this ordinance.

6-3 REPAIRS AND MAINTENANCE

On any building in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure provided that the cubic content of the structure as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

6-4 CHANGES IN DISTRICT BOUNDARIES

Whenever the boundaries of a district are changed, any uses of land or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

6-5 EXPANSION OR ENLARGEMENT

6-5-1 A nonconforming structure to be extended or enlarged shall conform with the provision of this ordinance.

6-5-2 A nonconforming activity may be extended throughout any part of a structure which was arranged or designed for such activity at the time of enactment of this ordinance.

6-6 NONCONFORMING LOTS

Any lot of record at the time of the adoption of this ordinance which is less in area or width than the minimum required by this ordinance may be used provided a showing of unnecessary and undue hardship would result if a variance is not granted from the Board of Zoning Appeals.

6-7 RESTORATION OR REPLACEMENT

6-7-1 If a nonconforming activity is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed fifty percent (50%) of the cost of reconstructing the entire activity or structure, it shall be restored only if use complies with the requirements of this ordinance.

6-7-2 If a nonconforming structure is destroyed or damaged in any manner to the extent that the cost of restoration to its condition before the occurrence shall exceed seventy-five (75%) of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance.

- 6-7-3 When a nonconforming structure devoted to a nonconforming activity is destroyed or damaged less than fifty percent (50%) of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than seventy-five percent (75%) of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is stated within twelve (12) months and completed within eighteen (18) months from the date of partial destruction.
- 6-7-4 The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

ARTICLE 7 – GENERAL PROVISIONS

7-1 ZONING PERMITS

- 7-1-1 Buildings or structures shall be started, reconstructed or enlarged only after a zoning permit has been obtained from the Administrator.
- 7-1-2 The commission may request a review of the zoning permit approved by the Administrator in order to determine if the contemplated use is in accordance with the district in which the construction lies.
- 7-1-3 Each application for a zoning permit shall be accompanied by three (3) copies of a scale drawing. The drawing shall show the size and shape of the parcel of land on which the proposed building is to be constructed, the nature of the proposed use of the building or land, and the location of such building or use with respect to the property lines of said parcel of land and to the right-of-way of any street or highway adjoining said parcel of land. Any other information which the Administrator may deem necessary for consideration of the application may be required. If the proposed building or use it in conformity with the provisions of this ordinance, a permit shall be issued to the applicant by the Administrator. One (1) copy of the drawing shall be returned to the applicant with the permit.

7-2 CERTIFICATE OF OCCUPANCY

Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the Administrator. Such a permit shall state that the building or the proposed use, or the use of land, complies with the provisions of this ordinance. A similar certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy either for the whole or a part of a building shall be applied for simultaneously with the application for a zoning permit. The permit shall be issued within ten (10) days after the erection or structural alteration of such building or part has conformed with the provisions of this ordinance.

7-3 CONDITIONAL USE PERMIT

Where permitted by this ordinance, the location of animal hospitals, laundromat, machinery sales and services, wholesale and processing, and radio, telephone and television transmission or receiving station or tower

more than 100 feet in height, will need, in addition to the zoning permit and certificate of occupancy, a conditional use permit. These permits shall be subject to such conditions as the governing body deems necessary to carry out the intent of this ordinance.

7-4 USES NOT PROVIDED FOR

If in any district established under this ordinance, a use is not specifically permitted and an application is made by a property owner to the Administrator for such use, the Administrator shall refer the application to the Planning Commission which shall make its recommendations to the Town Council, the ordinance shall be amended to list the use as a permitted use in that district, henceforth. Both the Planning Commission and Town Council shall hold a public hearing in connection with this after advertising according to Section 15.2-2280, Code of Virginia.

7-5 MINIMUM OFF-STREET PARKING

There shall be provided at the time of erection of any main building, or at the time any main building is enlarged, minimum off-street parking space with adequate provision for entrance and exit by standard sized automobiles, as follows:

- 7-5-1 For apartments, at least one and one-half (1-1/2) parking space for every dwelling unit.
- 7-5-2 For car wash (self service), at least two (2) standing or parking spaces for waiting vehicles for each wash rack.
- 7-5-3 For church, high school, college and university auditoriums, and for theaters, general auditoriums, stadiums, and other similar places as assembly, at least one (1) parking space for every four (4) fixed seats provided in said building.
- 7-5-4 For drive-in restaurants, at least one (1) parking space for each sixty (60) square feet of floor area.
- 7-5-5 For dry cleaners and laundries at least one (1) parking space for each two hundred (200) square feet of floor area.
- 7-5-6 For funeral homes, at least (1) parking space for each five (5) seats, provided that there shall be not less than twenty (20) spaces for each chapel or parlor.
- 7-5-7 For furniture and home furnishing establishment, at least one (1) parking space for each four hundred (400) square feet of floor area.
- 7-5-8 For hospitals, at least one (1) parking space for each two (2) beds' capacity, including infants' cribs and children's beds.
- 7-5-9 For industrial establishments, there shall be provided one (1) parking space for each two (2) employees computed on the basis of maximum

number of individuals employed within an eight (8) hour shift, plus space to accommodate all trucks and other vehicles used in connection therewith.

- 7-5-10 For laundromats, at least one (1) parking space for every two (2) cleaning or laundry machines.
- 7-5-11 For libraries, art galleries, and museums, at least one (1) parking space for each five hundred (500) square feet of floor area.
- 7-5-12 For medical and dental clinics, at least ten (10) parking spaces. Three (3) additional parking spaces shall be furnished for each doctor or dentist having offices in such clinic in excess of three (3) doctors or dentists.
- 7-5-13 For office buildings, financial institutions, clubs and lodges, at least one (1) parking space for each three hundred (300) square feet of floor area.
- 7-5-14 In all residential districts there shall be provided, either in a private garage or on the lot, space for the parking of one (1) automobile for each dwelling unit in a new building, or each dwelling unit added in the case of the enlargement of an existing building.
- 7-5-15 For restaurants, at least one (1) parking space for each four(4) seats.
- 7-5-16 For retail stores selling directly to the public, one (1) parking space for each two hundred (200) square feet of retail floor space in the building.
- 7-5-17 For service stations, at least two (2) spaces for each lubrication, service, or wash bay plus one (1) parking space for each employee.
- 7-5-18 For tourist courts, tourist homes, lodging or rooming houses, motels, apartments, and apartment motels, at least one (1) parking space for each accommodation, individual sleeping or living unit.
- 7-5-19 For wholesale and processing, but not wholesale associated with retail uses, at least one (1) parking space for each one thousand (1000) square feet of floor space, or one (1) parking space for each two (2) employees, whichever is greater.
- 7-5-20 For bowling alleys, at least two (2) parking spaces for each alley.
- 7-5-21 For barber and beauty shops, at least two (2) parking spaces for each chair, plus one (1) parking for each employee.
- 7-5-22 Any other commercial building not listed above hereafter erected, converted, or structurally altered shall provide one (1) parking space for each one hundred (100) square feet of business floor space in the building.
- 7-5-23 Parking space as required in the foregoing shall be on the same lot with the main building, except that in the case of buildings other than dwellings, spaces may be located as far away as three hundred (300) feet, such distance to be measured along lines of public access to the property. Every parcel of land hereafter used as a public parking area shall be surfaced with asphalt or concrete. It shall have appropriate guards where

needed as determined by the Administrator. Any lights used to illuminate said parking areas shall be so arranged as to reflect the light away from adjoining premises in a residential district.

7-6 OFF-STREET LOADING

On the same premises with every building, structure, or part thereof, erected and occupied for uses involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading, and unloading services in order to avoid interference with public use of the streets and alleys.

7-7 ZONING OF ANNEXED AREA

Any area annexed by the Town of Pennington, after the effective date of this ordinance, shall immediately upon the effective date of such annexation be automatically classified at an "R-1" district until a zoning plan of said area has been adopted by the Town Council. The Planning Commission shall prepare and present a zoning plan of the annexed area within six (6) months of the Town Council.

7-8 LANDSCAPE FEATURES

7-8-1 On any corner lot in a residential district, there shall be no planting, structure, fence, retaining wall, shrubbery, or obstruction to vision more than three (3) feet higher than the curb level within the triangle formed by the street right-of-way lines and a line connecting said street lines twenty-five (25) feet from their intersection. On any corner lot in a commercial or industrial district, no building or obstruction shall be permitted between a height of one (1) foot and a height of ten (10) feet higher than the curb level within the triangle formed by the street right-of-way line and a line connecting said street lines five (5) feet from their intersection.

7-8-2 Trees, shrubs, flowers, or plants shall not be permitted or maintained on any required front, side, or rear yard, if they interfere with the safe use of the public street or sidewalk. Said landscape features shall be permitted in any required front, side, or rear yard, provided they do not interfere with public safety and do not produce a hedge effect contrary to provisions of Article 7-8-1.

7-8-3 The setback and yard requirements of this ordinance shall not be deemed to prohibit any otherwise lawful fence or wall which is not more than four (4) feet high; provided, however, that a fence or wall along the rear lot line and along the side lot line to the rear of the required setback line may be erected to a height not exceeding seven (7) feet. This provision shall not be deemed to allow any wall or fence more than three (3) feet high as defined in Article 7-8-1. Also this provision shall not be interpreted to prohibit any open mesh type fence enclosing any school or playground.

ARTICLE 8 – PROVISIONS FOR APPEAL

8-1 BOARD OF ZONING APPEALS

- 8-1-1 A Board consisting of no more than seven and no less than five resident of the Town (always an odd number) shall be appointed by the Circuit Court of Lee County. Members of the Board may receive such compensation as may be authorized by the Town Council. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- 8-1-2 The term of office shall be for five (5) years, except that the original appointments shall be made for such terms that the term of at least one (1) member shall expire each year.
- 8-1-3 Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has a legal interest.
- 8-1-4 The Board shall choose annually its own chairman and vice-chairman who shall act in the absence of the chairman.

8-2 POWERS OF THE BOARD OF ZONING APPEALS

- 8-2-1 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this ordinance or of any ordinance adopted pursuant thereto.
- 8-2-2 To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary.
- 8-2-3 To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of provisions will result in unnecessary hardship, provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:
- 8-2-3.1 When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size, or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting or such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purposes of the ordinance.
- 8-2-3-2 No such variance shall be authorized by the Board unless it finds: (a) that the strict application of the ordinance would produce undue hardship; (b) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (c) that the authorization of

such variance will not be of substantial detriment to adjacent property and (d) that the character of the district will not be changed by the granting of the variance.

8-2-3.3 No such variance shall be authorized except after notice and hearing as required in Section 15.2-2280 of the Code of Virginia, as amended.

8-2-3.4 No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance.

8-2-3.5 In authorizing a variance, the Board may impose such conditions regarding the location, character, and other features of the proposed structure for use as it may deem necessary in the public interest, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with.

8-2-3.6 No provision of Section 7-2 shall be construed as granting the Board of Zoning as it may consider necessary.

8-4 RULES AND REGULATIONS

8-4-1 The Board of Zoning Appeals shall adopt such rules and regulations as it may consider necessary.

8-4-2 The meeting of the Board shall be held at the call of its chairman or at such times as a quorum of the Board may determine.

8-4-3 The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

8-4-4 The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

8-4-5 All meetings of the Board shall be open to the public.

8-4-6 A quorum shall be a majority of the members of the Board.

8-4-7 A favorable vote of the majority of the members of the Board shall be necessary to reverse any order, requirements decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.

8-5 APPEAL TO THE BOARD OF ZONING APPEALS

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or municipality affected by any decision of the Zoning Administrator. Such appeal shall

be taken within thirty (30) days after the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board that, by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a court of record, on application and on notice to the Zoning Administrator and for good cause shown.

8-6 APPEAL PROCEDURE

8-6-1 Appeals shall be mailed to the Board of Zoning Appeals c/o the Zoning Administrator, and a copy of the appeal mailed to the secretary of the Planning Commission. A third copy should be mailed to the individual official, department, or agency concerned, if any.

8-6-2 Appeals requiring an advertised public hearing shall be accompanied by a certified check for twenty dollars (\$20.00) payable to the Treasurer, Town of Pennington Gap.

8-7 PUBLIC HEARING

The board shall fix a reasonable time for the hearing of an application or appeals, give public notice thereof, as well as due notice to the parties in interest, and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of an administrative officer, or may decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or may affect any variance from the ordinance. The Board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the Board and shall be public records. The chairman of the Board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

8-8 DECISION OF BOARD OF ZONING APPEALS

8-8-1 Any person or persons jointly or severally aggrieved by any decision of the Board of Zoning Appeals, or any taxpayer or any officer, department, board, or bureau of the county or municipality, may present to the Lee County Circuit Court an petition specifying the grounds on which aggrieved within thirty (30) days after the filing of the decision of the Board.

8-8-2 Upon presentation of such petition, the court shall allow a writ of certiorari to review the decision of the Board of Zoning Appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relater's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; but the court may, on

application, on notice to the board, and on due cause shown, grant a restraining order.

- 8-8-3 The Board of Zoning Appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 8-8-4 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.
- 8-8-5 Costs shall not be allowed against the Board, unless it shall appear to the court that it is acted in bad faith or with malice in making the decision appealed from.

ARTICLE 9 – VIOLATION AND PENALTY

- 9-1 All department, officials, and public employees of this jurisdiction which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this ordinance. They shall issue permits for uses, buildings, or purposes only when they are in harmony with the provisions of this ordinance. Any such permit, if issued in conflict with the provisions of this ordinance, shall be null and void.
- 9-2 Any person, firm, or corporation, whether as principal, agent, employed, or otherwise, violating, causing, or permitting the violation of any of the provisions of this ordinance shall be fined up to two hundred fifty dollars (\$250.00). Such person, firm or corporation shall be deemed to be guilty of a separate offense for each and every day during which any portion of any violation of this ordinance is committed, continued, or permitted by such persons, firm, or corporation, and shall be punishable as herein provided.

ARTICLE 10 – AMENDMENTS

- 10-1 The regulations, restrictions, and boundaries established in this ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed by a favorable majority of votes of the governing body, provided:
- 10-1-1 That a property owner may petition the governing body to have their property rezoned by submitting their request in writing with payment of thirty five (\$35.00) payable to the Town of Pennington Gap for advertising and administration.
- 10-1-2 That the Planning Commission and Town Council hold a public hearing where the parties of interest and citizens shall have an opportunity to be heard.

10-1-3 That the public hearing notice shall specify the time and place of such hearing by publication once a week for two successive weeks in some newspaper having general circulation in the immediate area. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than six (6) nor more than twenty-one (21) days after final publication.

10-1-4 That no zoning amendment can be enacted unless the Town Council has referred the proposed amendment to the Planning Commission for a report. Failure of the commission to report in ninety (90) days or such shorter period as prescribed by the Town Council shall be deemed approval.

10-1-5 That substantially the same amendment when disapproved will not be reconsidered for one year.

ARTICLE 11 – ADMINISTRATION AND INTERPRETATION

11-1 This ordinance shall be enforced by the Administrator who shall be appointed by the Town Council. The Administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the Town Council.

11-2 Nothing contained herein shall require any changes in the plans or construction of any building or structure for which a permit was granted prior to the effective date of this ordinance. However, such construction must commence thirty (30) day after this ordinance becomes effective. If construction is discontinued for a period of six (6) months or more, further consideration shall be in conformity with the provisions of this ordinance for the district in which the operation is located.

11-3 INTERPRETATION

Unless district boundary lines are fixed by dimensions or otherwise clearly shown or described, and where uncertainty exists with respect to the boundaries of any of the aforesaid district as shown on the zoning map, the following rules shall apply:

11-3-1 Where district boundaries are indicated as approximately following or being at right angles to the center lines of streets, highways, alleys, or railroad main tracks, such center lines or lines at right angles to such center lines shall be construed to be such boundaries as the case may be.

11-3-2 Where a district boundary is indicated to follow a river, creek, or branch or other body of water, said boundary shall be construed to follow the center line at low water or at the limit of the jurisdiction; and, in the event of change in the shoreline, such boundary shall be construed as moving with the actual shoreline.

11-3-3 If no distance, angle, curvature description, or other means is given to determine a boundary line accurately and the foregoing provisions do not apply, the same shall be determined by the use of the scale shown on said zoning map. In the case of subsequent dispute, the matter shall be referred to the Board of Zoning Appeals which shall determine the boundary.

11-4 SEVERABILITY

Should any section or provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

11-5 CONFLICTING ORDINANCES

All conflicting ordinances or parts thereof which are inconsistent with the provisions of this ordinance are hereby repealed.

11-6 EFFECTIVE DATE

This zoning ordinance of the Town of Pennington Gap, Virginia, shall be effective at and after 12:01 a.m., October 1, 2008.

ZONING

TRAILERS AND MOBILE HOMES

Section 1. No vehicle designed for occupancy or any vehicle commonly known as a "mobile home" shall be temporarily or permanently located within the corporation limits of the Town of Pennington Gap, except in certain duly designated trailer parks as established by the council of the Town of Pennington Gap. For the purpose of this section a trailer or mobile home is defined so as not to include a modular or double wide type house, which is placed on a permanent foundation and is at least 24 feet in width; and includes all such trailers or mobile homes whether used for residences or for business purposes, or for any other purposes.

Any violation of this section shall be punishable by a fine of \$50.00 per day, each day constituting a separate offense; and further that no such trailer or mobile home which is in violation of this section shall be established with water and sewer service from the Town of Pennington Gap, Virginia.