

To: New Market Planning Commission
Larry Hale, Chairman
Sherri Erbaugh, Vice Chairman
George Daugharty
Tom Linski, Jr.
Sonny Mongold
Bob King
Harry Wine, Jr.

In accordance with Planning Commission Bylaws, a regular meeting of the New Market Planning Commission will be held in the Council Chambers of the Arthur L. Hildreth, Jr., Municipal Building on **Monday, February 3rd, 2025, at 6:30 p.m.** Full attendance is respectfully requested.

Nathan Garrison
Zoning Administrator

TENTATIVE AGENDA-

Consideration of:

- I. Call to Order and Establishment of Quorum
- II. Pledge of Allegiance
- III. Approval of Minutes from Monday, January 13th, 2025
- IV. Public Hearings

A joint public hearing with the New Market Town Council to consider whether to recommend a text amendment to the Town Zoning Ordinance Article II. Definitions, Section 70-10, Article VIII. General Business, District B-1, Section 70-60 (v) and Section 70-61 (oo), and Article XI, Interstate Corridor Business, District B-2, Section 70-71 (v) to allow for Tobacco, Smoke, and Vape Shops to be defined and classified as a conditional use in zones B-1 and B-2, and to update the permitted uses in the B-1 zone by excluding Tobacco, Smoke, and Vape Shops and replacing the term 'drug stores' with 'pharmacies.'

V. Old Business

1. Planning Department Report –Summer Barden

VI. New Business

1. Discussion and consideration to recommend a text amendment to Article II. Definitions, Section 70_10, Article VIII. General Business, District B-1, Section 70-60 (v) and Section 70-61 (oo), and Article XI, Interstate Corridor Business, District B-2, Section 70-71 (v) to allow for Tobacco, Smoke, and Vape Shops to be defined and classified as a conditional use in zones B-1 and B-2, and to update the permitted uses in the B-1 zone by excluding Tobacco, Smoke, and Vape Shops and replacing the term 'drug stores' with 'pharmacies.'

VII. Adjournment

1 **New Market Planning Commission**

2 **January 13th, 2025**

3 **CALL TO ORDER AND ESTABLISH OF QUORUM**

4 The regular meeting of the New Market Planning Commission was held on Monday, January 13th, 2025,
5 at 6:30 p.m. The following Planning Commission members were in attendance: Chairman Larry Hale,
6 Bob King, George Daugharty, Tom Linski, Jr., Harry Wine Jr., and Sherri Erbaugh. Member Sonny
7 Mongold was not present.

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9 Mr. Hale opened the meeting at 6:30 p.m. and established a quorum with six members present.
10 Mr. Hale led all in attendance in the reciting of the Pledge of Allegiance.

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12 **APPROVAL OF MINUTES:**

13 Mr. Hale entertained a motion to approve the minutes. Mr. Linski made a motion to approve the
14 minutes as written. Mr. Daugharty seconded the motion. The motion passed with a unanimous voice
15 vote 5-0.

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18 **PUBLIC HEARING:** none

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21 **OLD BUSINESS:**

22 Ms. Barden reported on permits that were approved since the last meeting. There were two zoning
23 permits for new homes at 303 E. Old Cross Road and 307 E. Old Cross Road, a zoning permit for ground
24 solar at 290 E. Old Cross Road, a zoning permit for a deck at 179 W. Lee Highway, two zoning permits for
25 house additions for 164 Early Street, and 9498 Cadet Road. There was also a home occupation permit
26 for a nail salon at 9996 Pleasant View Drive.

27 **NEW BUSINESS:**

28 Mr. Hale started the first action item for the annual selection of the Chairman, Vice-Chairman, and
29 Secretary for the Planning Commission. Mr. Hale opened the floor for nominations. Mr. Daugharty
30 nominated Mr. Larry Hale for Chairman, and Mr. Wine seconded the nomination. With a unanimous
31 vote of 5-0, Mr. Larry Hale is selected as the Planning Commission Chairman for 2025. For the office of
32 Vice President, Mr. Daugharty nominated Mrs. Sherri Erbaugh, and Mr. Wine seconded the nomination.
33 With a unanimous 5-0 vote, Mrs. Sherri Erbaugh is selected as the Planning Commission Vice President
34 for 2025. For the Secretary position, Mrs. Erbaugh nominated Mrs. Amber Smoot, and Mr. Linski
35 seconded the nomination. With a unanimous vote of 5-0, Mrs. Amber Smoot will be the Planning
36 Commission Secretary for 2025.

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38 The second action item was the discussion of the proposed Tobacco, Smoke and Vape Shop Ordinance,
39 and Ms. Barden led the discussion and had a PowerPoint presentation. Ms. Barden gave a quick
40 background and summary of the reasons behind the proposed ordinance. Ms. Barden explained the text
41 amendments that would incur to implement the ordinance. The ordinance would introduce a new clear
42 definition for a Tobacco, Smoke, and Vape Shop under the zoning ordinance. She explained that they are
43 proposing that Tobacco, Smoke and Vape Shops require conditional use permit allowed in zones B-1 and

44 B-2 only. For the conditional use permit, any new businesses that fall under the tobacco, smoke, and
45 vape shop category would have to submit a conditional use permit. The permit is then reviewed by staff
46 and presented to the Planning Commission for recommendation. If it is recommended, a joint public
47 hearing will be held, and then the Town Council will be able to vote whether to approve the permit. Ms.
48 Barden explained the other changes would be to Section 10-60 (v.) that updates the wording for retail
49 stores in B-1 permitted uses. The changes would be the wording “drug store” to “pharmacy”, and adds
50 the phrase “excluding tobacco, some, and vape shops to clarify the exclusions. Ms. Barden recognized
51 the existing businesses and explained the new ordinance will not impact them; however, they would be
52 classified as ‘nonconforming’ or ‘grandfathered’. She did note that if the business closes there is a two-
53 year sunset period during which another similar business can open without requiring a conditional use
54 permit. Any expansion or addition to their business would require a conditional use permit to be
55 considered conforming.

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57 Mr. Daugharty inquired about the reason for the existing businesses to be deemed nonconforming. Mr.
58 Garrison explained that since we would be enacting a new ordinance, they would be grandfathered in
59 and would not need to submit a conditional use permit to continue to operate. Mr. King inquired about
60 the process and how it is determined what they have in their store. Mr. Garrison explained that with the
61 conditional use permit it allows the Planning Commission and the Town Council the ability to set the
62 standards. This keeps the ordinance from being too restrictive and allows it to be more flexible. Mrs.
63 Erbaugh stated she thinks the ordinance is good. Mr. Hale stated the felt it was good and well written.
64 Ms. Barden explained the next steps would be for the Planning Commission to agree to move forward
65 with the ordinance. Then a joint public hearing would be held with the Town Council, and after the joint
66 public hearing, the Town Council may vote on the ordinance.

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68 Mr. Garrison explained that staff need the Planning Commission to vote to move forward with the
69 ordinance. Mr. Daugharty made a motion to allow staff to move forward with scheduling a joint public
70 hearing for the proposed Tobacco, Smoke and Vape Shop ordinance. Mrs. Erbaugh seconded the
71 motion, and with no further discussion the motion carried with a unanimous voice vote of 5-0. *The*
72 *proposed text amendments and the PowerPoint presentation will be with the notes.*

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74 Mrs. Erbaugh inquired about an update on the Village at Smith Creek project. She stated that the
75 deadlines they proposed were coming up, but it didn’t look like they would meet them. Mr. Garrison
76 explained that although there has been a lot of progress, they would not have any rooftops done by
77 February. Mr. Garrison gave an update on what work has been completed at this point and fielded
78 questions from the Planning Commission members. He did confirm that the project was bonded. He did
79 not have an official date for the completion, but it is underway. There will be 26 new units, and we
80 currently have some zoning permits submitted for some houses there. There was discussion about the
81 types of units, and the façade of the units.

82 Mr. Daugharty had a follow-up question for the Tobacco, Smoke, and Vape Shop Ordinance. He inquired
83 about the type of hemp products it was mentioning. He also asked for the definition of the word
84 kratom. Ms. Barden explained that the Virginia Code definition is that they are products that are
85 typically marketed as a herbal product that may have a stimulant or relaxing effect. Mr. Daugharty
86 inquired on the definition of the tobacco, smoke and vape shops wording and the reason for the
87 structure of the definition, and noted that some of the wording seemed to be confusing. After

88 discussion about the goal of the definition, the wording and structure, Mr. Garrison asked the Planning
89 Commission if the staff were to amend the proposed text to add the wording, 'And hemp products,
90 along with any kratom products' to the second sentence of the current proposed definition. All Planning
91 Commission members agreed with the additional wording.

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93 **ADJOURNMENT**

94 **With no further business to discuss, at 7:10 p.m., Mr. Linski made a motion to adjourn the**
95 **meeting. Mr. Daugharty seconded the motion which passed on a unanimous 5-0 voice vote.**

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Amber Smoot, Secretary



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NOTICE OF PUBLIC HEARING

Notice is hereby given in accordance with Section 15.2-2204 of the Code of Virginia that the New Market Town Council will consider whether to approve and the New Market Planning Commission will consider a text amendment to Article II. Definitions, Section 70-10, Article VIII. General Business, District B-1, Section 70-60 (v) and Section 70-61 (oo), and Article XI, Interstate Corridor Business, District B-2, Section 70-71 (v) to allow for **Tobacco, Smoke, and Vape Shops** to be defined and classified as a conditional use in zones B-1 and B-2, and to update the permitted uses in the B-1 zone by excluding **Tobacco, Smoke, and Vape Shops** and replacing the term 'drug stores' with 'pharmacies.' A joint public hearing will be held in the Council Chambers of the Arthur L. Hildreth Municipal Building, 9418 John Sevier Road New Market, Virginia, on Monday, February 3, 2025, at 6:30 p.m., or as soon thereafter as the matter may be heard, at which time interested persons will have the opportunity to speak and be heard concerning the text amendment. The details of the text amendment for Ordinance application include the following:

Article II. Definitions

Section 70-10- Specific Definitions

Tobacco, Smoke, and Vape Shops. A business primarily engaged in the sale or sampling of tobacco products, nicotine vapor products, alternative nicotine products (including both natural and synthetic sources), and hemp products, as defined in the Code of Virginia §18.2-371.2, along with any kratom products as regulated by the Code of Virginia §59.1-200. This includes establishments whose primary purpose, defined as having most of their sales or display space devoted to these items, is the sale of cigarettes, cigars, vaping devices, electronic cigarettes, and other products containing tobacco, nicotine, hemp, or kratom products, as well as accessories and smoking-related paraphernalia. All sales and sampling within these establishments must comply with applicable age restrictions per Virginia law.

Article VIII. General Business, District B-1

Section 70-60 (v)- Permitted Uses

v. Retail stores, including but not limited to the following uses: antique and second-hand stores; appliance sales stores; art supply stores; family book stores; candy stores; clothing, clothing accessory and dry goods stores; department stores; **pharmacies**; floor coverings stores; furniture sales stores; automotive parts sales store; grocery stores; hardware, paint and wallpaper stores; jewelry stores; rock and gem shops; lawn and garden supply stores; bakeries; arts and crafts studios or stores; leather goods and luggage stores; music stores; pharmacies; photographic equipment and supply stores; sporting goods stores, except for guns; stationary, office supply and paper goods stores; toy stores; show stores; fabric stores; florist shops; **and gift shops, but excluding tobacco, smoke, and vape shops.**



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Section 70-61 (oo)- Permitted Uses with a Conditional Use Permit

oo. Tobacco, Smoke, and Vape Shops.

Article XI. Interstate Corridor Business, District B-2

Section 70-71 (v)- Permitted Uses with a Condition Use Permit

v. Tobacco, Smoke, & Vape Shops.

A copy of the C.U.P application referenced above, and the current zoning ordinance are available for public review during regular business hours at the New Market Town Office, 9418 John Sevier Road, New Market, Virginia. Copies are also available for review online at <http://www.newmarketvirginia.com/planning-commission>.

All public meetings are intended to be accessible to persons with disabilities in accordance with the Americans with Disabilities Act. A person requiring accommodation and/or auxiliary aids shall notify the Zoning Administrator at least five days prior to the scheduled meeting.

Nathan Garrison, Zoning Administrator