Article II. Definitions.

Sec. 70- 9 General Usage.

The following general rules of usage shall apply to the regulations in this chapter:

(a.) Words used in the present tense include the future tense; words used in the singular number include the plural number and words in the plural number include the singular number, unless the obvious construction of the wording indicates otherwise. Any reference to gender shall include both the masculine and feminine.

(b.) The word "shall" is always mandatory; the word "may" is permissive.

(c.) Unless otherwise specified, all distances and areas refer to measurements in a horizontal plane.

(d.) The word "building" or "structure" includes any part thereof, and the word "structure" includes the word "building"; the word "lot" includes the words "plot" and "parcel".

(e.) The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged or designed to be occupied". The word "used" shall be deemed also to include "erected", "reconstructed", "altered", "placed", or "moved".

(f.) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building".

(g.) The word "town" means the Town of New Market, Virginia.

(h.) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

(i.) Words and terms not defined herein shall be interpreted in accordance with their customary dictionary meaning and normal usage.

Sec. 70- 10 Specific Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Abattoir. A facility where animals are killed for food; slaughterhouse.

Accessory use, building or structure. A subordinate use or structure customarily incidental to and located upon the same lot occupied by the main use or structure.

Acreage. A parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision plat.

Addition. Any construction which increases the area of cubic content of a building or structure. The construction of walls which serve to enclose completely any portion of an existing structure, such as a porch, shall be deemed an addition within the meaning of this chapter.

Adjacent. Nearby, but not necessarily touching.

Adjoining. Touching; abutting; contiguous.

Administrative official. The official charged with the enforcement of this chapter, who shall be appointed and/or hired by the town council.

Adult occupant. Any individual 18 years of age or older, living or sleeping in a building or dwelling for more than thirty days in a given year and/or who uses the building or dwelling as their legal address.

Agriculture. The tilling of the soil, the raising of crops, horticulture and forestry; including the keeping and raising of animals, fish and fowl.

Airport, commercial. (including air park, flight strip, airfield, and heliport). A place where, in compliance with all applicable state and federal codes and regulations, aircraft may take off or land, discharge or receive cargo and/or passengers, be repaired, take on fuel or be stored, provide flight instructions, and where fees are charged for one or more of these services.

Airport, private. An area where, with the consent of the owner thereof and in compliance with all applicable state and federal codes and regulations, aircraft may take off or land, be stored or repaired, and where no fee is charged by said owner.

Alley. A passage or way open to public travel, affording a secondary means of vehicular access to abutting lots or upon which service entrances of buildings abut, but not intended for general traffic circulation.

All-weather surface. Crushed rock, gravel, concrete, blacktop, or similar surface.

Alteration. Any change in the total floor area, use, adaptability or external appearance of an existing structure.

Amendment. Any change in this chapter or the official zoning map granted by the town council after review and comment by the planning commission and appropriate public hearing.

Animal hospital. A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat, and veterinary hospitals.

Apartment. A room or suite of rooms in a multi-family dwelling intended for use as a residence by a single family.

Appeal. For the purposes of this chapter, and appeal shall be considered to be the process wherein the Board of Zoning Appeals reviews an administrative decision for errors in the application of this ordinance or to determine if procedural and substantive due process have been fulfilled; or, the process wherein a decision of the Board of Zoning Appeals is reviewed by the circuit court.

Arbitrary. Fixed or arrived at through an exercise of will or caprice, without consideration or adjustment with reference to principles, circumstances, or significance, or given to making decisions thus; decisive but unreasoned.

Architect, registered. A licensed professional architect, registered by the Commonwealth of Virginia.

Area. In general usage, when not specifically referring to dimensional measurement, "area" is synonymous with the word "tract", which is a piece of land capable of being described with such definiteness that its location may be established and boundaries definitely ascertained.

Art gallery. A building used for the exhibition and/or sale of art and art works.

Assembly hall. Any structure used for the gathering of persons, including an armory, stadium, coliseum, or civic center, but excluding a theater.

Assembly plant. Any structure used for the fitting together of parts or components to form a complete product.

Attic. The space between the ceiling beams of the top habitable story and the roof rafters. An attic shall be included in the calculation of building height (refer to "story, half").

Auction house. An establishment, excluding community centers and publicly owned property, used for the public sale of property, other than livestock, to bidders.

Automobile graveyard. Any lot or place which is exposed to the weather upon which more than five (5) motor vehicles or any kind, incapable of being operated and which it would not be economically practical to make operative, are placed, located or found.

Automobile parking lot, commercial. A lot or portion thereof, other than an automobile sales lot, held out or used for the parking of motor vehicles for a consideration, where service or repair facilities are not permitted. Such parking lot shall not be considered an accessory use, nor shall it be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

Automobile sales and/or rental facility. The use of any structure or land area for the display, sale and/or rental of new or used automobiles, trucks, vans, trailers, recreational vehicles or other vehicles and including any warranty repair work and other vehicle services conducted as an accessory use. All such repairs and service shall be conducted wholly within an enclosed building.

Automobile service station. Any place of business with pumps and underground storage tanks which is used or intended to be used for the retail sale of fuels, lubricants, air, water and other operating commodities for motor vehicles and/or facilities for the storage, minor repairs, inspection and servicing of said vehicles, but not including body repair, painting, steam cleaning, rust proofing, refinishing, a machine shop, or a vulcanizing shop.

Automobile wrecking yard. An area where destroyed, abandoned, and/or obsolete motor vehicles of any kind are disassembled and where parts of said disassembled automobiles are generally sold, and where the remaining automobile bodies and their components are temporarily stored until they can be removed or reduced to scrap metal.

Awning. A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

Bank, savings and loan, or other financial office. Any establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds. This shall include unmanned bank teller machines not ancillary to a bank.

Basement. A story having part, but not more than one-half, of its height below the average grade.

Beauty parlor or barber shop. Business establishments for the cutting and dressing of hair, shaving and trimming of bears, and performing related services.

Bed and breakfast establishment. A single-family dwelling unit, where the owner or operator resides on the premises, which is used and regulated primarily as a private residence, but which provides up to eight (8) rooms for use as sleeping accommodations for paying guests, who may not be lodged for more than fourteen (14) consecutive days, and who may be served breakfast, but no other meals. A bed and breakfast establishment shall not be considered a home occupation for the purpose of this chapter.

Block. A unit of land bounded by streets or by a combination of streets and public land, railroad right-of-ways, waterways, or any other barrier to the continuity of development.

Bicycle/sports equipment store. Business established for the sale and repair of bicycles and sports equipment, excluding motorcycles.

Board. The Board of Zoning Appeals of the town of New Market, Virginia, as established under this chapter

Boarding facilities for private schools. A structure or structures providing living accommodations for a student body as an accessory use for a private school.

Boarding house. A dwelling where, for compensation and by prearrangement for definite periods, lodging and meals are provided for more than three (3) non-transient persons. A boarding house is to be distinguished from a hotel, and no provisions shall be made for cooking in individual rooms or suites.

Body-piercing salon. Any place in which a fee is charged for the act of penetrating the skin to make a hole, mark, or scar, generally permanent in nature. "Body-piercing" does not include the use of a mechanized, presterilized ear-piercing system that penetrates the outer perimeter or lobe of the ear or both.

Bowling alley. Indoor facility for the sport of bowling, with customary accessory uses such as bowling equipment rental and snack bars.

Buffer. Landscaping, fences, walks or similar barriers used to visibly separate one use from another or to shield or block noise or other nuisances; or, a strip of land established to protect one type of land use from another that has a different allowable density of development.

Buildable area. The buildable area of a lot is the space remaining after the minimum yard requirements of this chapter have been complied with.

Building. A structure having one or more stories and a roof, supported by walls or columns, designed primarily for the shelter of persons, animals or property of any kind.

Building, accessory. See "accessory use, building or structure."

Building code. The Virginia Uniform Statewide Building Code, as amended.

Building, community. A building, and its accessory buildings, for social, educational and recreational activities for a neighborhood or community, provided that any such use is not operated primarily for economic gain.

Building face. Any one of the four (4) principal exposures, front, sides or back, of a building. For the purposes of sign regulations, the face of a building is that portion exposed to a street, alley or parking area and is measured at ground level on a lineal basis from exposed corner to exposed corner.

Building, front. The one face or wall of a building which is architecturally designed as the front of a building, which normally contains the main entrance for use by the general public.

Building, height of. The vertical distance from the level of the curb or the established curb grade opposite the middle of the front of a building to the highest point of the roof, if a flat roof; to the deck line of a mansard roof; or to the main height level between the eaves and ridge of a gable, hip or gambrel roof. For a building 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.

Building line. A line established, in general, parallel to the front street line, between which and the front street line no part of a building shall project, except as otherwise provided by this chapter.

Building, main. The principal structure, or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

Building, public. A building owned or leased by a governmental agency and used for governmental functions.

Building, office. A building constructed or converted for a principal use as space for business, professional, and/or administrative offices, but shall not include storage yards or warehouse operations.

Bulk. The size of buildings measured in terms of volume and height.

Camps and campgrounds. Land and buildings, whether publicly or privately owned, upon which are located sites for the two or more travel trailers, camping trailers, motor homes or tents for seasonal or temporary recreational use and occupancy.

Carport. A roofed space having at least one side permanently open to the weather, primarily designed or used for parking motor vehicles.

Car wash. A structure or portion thereof containing facilities for washing motor vehicles by hand or by using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam cleaning, or similar mechanical devises.

Cellar. A portion of a building having more than one-half of its height below grade.

Cemetery. Land used for the burial of the dead; graveyard.

Centerline. A line lying between the side lines of a street right-of-way.

Child. Any person who is under the age of 18.

Church or other house of worship. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, which is maintained and controlled by a religious body organized to conduct public worship.

Circuit court. The circuit court of Shenandoah County, Virginia.

Clinic. An establishment where human patients, who are not lodged overnight, are admitted for dental or medical examination or treatment.

Club. A facility where the principal purpose is for members of associations or organizations, such as but not limited to fraternal organizations, to meet to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and by-laws. "Club" shall not include night clubs or other institutions operated as a business.

Commercial use. Any wholesale, retail or service business activity established to carry on trade for a profit.

Commission. The Planning Commission of the town of New Market, Virginia.

Common open space. An open tract or parcel of land owned in undivided interest, not devoted to structures but directly related and adjunct to a development, as herein provided. (Refer to "open space.")

Community center. See "building, community".

Community facilities. Facilities used by the public, such as streets, utilities, school, libraries, parks and playgrounds, which may be publicly or privately owned.

Community service use. See "semi-public use".

Comprehensive Plan. The adopted Comprehensive Plan of the town of New Market, Virginia, as amended.

Conditional use permit. A permit issued by the town council for a use permitted in a particular district, to occupy or use land and/or a building or structure erected thereon for a specific purpose not permitted by right, but permitted in accordance with standards or conditions established in this chapter.

Condominium. See "dwelling, multi-family".

Conference center. A facility to accommodate conventions, large meetings, trade shows and similar events.

Construction site. The total necessary land required for all buildings or uses within a unified development before a zoning permit may be issue.

Contiguous. Two parcels of land are contiguous if they abut each other or if they are separated only by a public street.

Contractor, general. A licensed individual who is engaged in all or most aspects of building construction and/or land development.

Convalescent home. See "nursing home".

Council. The Town Council of New Market, Virginia

Country Club. Facility providing recreational facilities that are open only to members and their guests for a membership fee.

County. Shenandoah County, Virginia.

Court. An open, unoccupied and unobstructed space other than a yard on the same lot with a building or group of buildings and which is bounded on two or more sides by such building(s).

Courtyard Home. See "Dwelling, Courtyard Home".

Covenant. A private agreement between all or part of the owners of land within a subdivision or other defined area which is normally contained in the property deed or otherwise formally recorded, that asserts legal requirements on the use of that real estate.

Coverage. Percentage of the total lot area, which may be occupied by buildings.

Craft shop. A retail shop selling predominantly hand-made or hand-finished, non-perishable items and/or the supplies to make such items, and where classes may be held for the instruction of how to make such items.

Cul-de-sac. A street with only one outlet and having an appropriate turnaround for a safe and convenient reverse traffic movement.

Dairy. A commercial establishment for the manufacture, processing, and/or sale of dairy products.

Dance hall. A public establishment that, on a regular basis and for an admission fee, provides music and space for dancing.

Day care center/facility. A state licensed or approved facility in which custodial care is given, for only part of the twenty-four hour day, to ten (10) or more children or aged, infirm, or disabled adults who reside elsewhere.

Dedication. The transfer of property rights from private to public ownership.

Density. Number of dwelling units per unit of land area.

Developer. The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interests in such land.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Development Plan. See Article XIII. of this chapter.

District. A portion of the territory within the Town of New Market in which certain uniform regulations and requirements or various combinations thereof apply under the provisions set forth in this chapter.

Dormitory. See "boarding facilities for private schools".

Driveway. An area specifically designed to give access from a public way to parking spaces on an abutting lot.

Drive-in facility. A facility, or portion thereof, which by design, physical features, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

Dwelling. A building or portion thereof which is used or intended to be used exclusively for residential purposes and contains one or more dwelling units:

(a.) Single-family detached dwelling. A building arranged, designed or intended for occupancy exclusively by one family, which is not attached to any other dwelling by any means.

(b.) Two-family dwelling. A residential building containing not more than two (2) dwelling units within the single building, on a single lot, and designed for occupancy by not more than two (2) families, which is not a duplex.

(c.) Two-family attached (duplex) dwelling. Two separate single-family dwelling units, abutting on one side, and joined by a common party wall without openings. Each unit shall have a separate lot with dimensions as required by district regulations in this chapter, and may be individually owned.

(d.) Single-family attached dwelling (town house). A single family dwelling, on its own lot, in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by a common party wall.

(e.) Multi-family dwelling.

1. Apartment house. A building used or intended to be used as a dwelling by three (3) or more families living independently of each other and who do their cooking therein.

2. Garden apartment. A multi-family structure, of up to three (3) stories, used or intended to be used as a residence of three or more families living independently of each other, and constructed in such a manner as to define an inner court or garden area.

3. Condominium. A dwelling unit in an apartment building or garden apartment building which is individually owned, but in which the common areas are owned, controlled and maintained through an organization consisting of all individual owners.

(f.) Courtyard home. A single-family detached dwelling, on its own lot, located in a grouping of at least four such units, intended to be used as a residence for smaller

families who do not desire the maintenance associated with large lots. Courtyard home development shall include provisions for an owners association or organization to provide maintenance and ownership of common areas and open space areas.

Dwelling unit. One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit.

Easement. A dedication by a property owner to another party for the use or non-use of, or limited use of land for a specific purpose on a repeating or continuing basis.

Eating establishment. An establishment in which the principal use is the sale of food and beverages for dining on the premises.

Elderly housing. A structure containing multi-family dwelling units where the occupancy of the dwellings is restricted to persons sixty-two years of age or older, or couples where either the husband or wife is sixty-two years of age or older; or to elderly persons as defined in any state or federal program providing such housing.

Engineer. An engineer licensed by the Commonwealth of Virginia.

Enlargement. An addition to the floor area of an existing building, an increase in the size of any other structure, and increase in the portion of a tract of land occupied by an existing use, or the expansion of an existing use.

Erected. Constructed, reconstructed, moved or structurally altered.

Family. A person living alone, or any of the following groups conforming to the limitations in Section 70-152.2, Residential Occupancy Standards, living together as a single nonprofit and non-commercial housekeeping unit, and sharing common living, sleeping, cooking and eating facilities:

(a.) Subject to the limitations in Section 70-152.2, any number of persons all of whom are related to the second degree of consanguinity by blood, marriage, adoption, guardianship, or other duly-authorized custodial relationship, as verified by official public records such as driver's licenses, birth or marriage certificates;

(b.) Up to four persons;

(c.) Subject to the limitations in Section 70-152.2, two unrelated persons and any children related to either of them, as verified by official public records such as driver's licenses, birth or marriage certificates;

(d.) Not more than eight persons who are residents of a residential facility as defined in Code of Virginia § 15.2-2291(A). This definition does not include persons currently illegally using or addicted to a "controlled substance" as defined in the Code of Virginia § 54.1-3401;

(e.) Not more than eight persons who have a physical or mental impairment which substantially limits one or more of such person's major life activities. This definition does not include persons currently illegally using or addicted to a "controlled substance" as defined in the Code of Virginia § 54.1-3401; or

(f.) Subject to the limitations in Section 70-152.2, up to two of the following persons shall not be included in the number of persons who comprise a family under the definition of family set forth in subsections 1, 2 and 3: a) a paid housekeeper or servant, or b) the minor child of a paid housekeeper and servant, c) a live-in companion to the elderly or disabled, d) an "au-pair" employee. Reasonable proof of the status of persons set forth in this section, including but not limited to a copy of an employment contract, a federal I-9 form, a tax return, or birth certificate, as applicable.

Fence. A freestanding structure of metal, masonry, composition, or wood or any combination thereof resting on, or partially buried in the ground and rising above ground level and used for confinement, screening or partition purposed. Trees, shrubbery or other foliage does not constitute a fence under this definition.

Financial institution. See "bank".

Floor area. The floor area of a building is the sum of the gross horizontal areas of the several floors of all of the buildings on the lot, measured from the exterior faces of exterior walls, or from the centerline of party walls separating two buildings. Floor area shall include the area of basements or cellars when used for residential, commercial or industrial area, but shall not include a basement or cellar or portion thereof used for storage or housing of mechanical or central heating equipment; nor shall it include any attic space providing headroom of less than seven (7) feet.

Floor area ratio. A formula for determining permitted building volume as a multiple of the building lot.

Forestry. The raising and processing of forestal products, including but not limited to lumber, posts, firewood, Christmas trees, and other wood products available for sale or for farm use.

Frontage. The minimum width of a lot measured from one side lot line to 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 herein.

Funeral home/mortuary. An establishment used for human funeral services, which may or may not include facilities for embalming, cremation, or the storage of caskets and funeral supplies.

Garage, private. An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.

Garage, parking. A building or portion thereof, other than a private garage, designed or used for the storing of motor vehicles.

Garden apartment. See "dwelling, multi-family".

Gasoline service station. See "automobile service station".

Golf course. Land, whether publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto.

Governing body. The Town Council of New Market, Virginia

Government building. See "building, public".

Grade. The average of the finished ground level adjoining a building.

Greenhouse. A glassed or transparent enclosure used for the protection, cultivation or sale of plants.

Group home. A residential facility in which no more than eight (8) mentally ill, mentally retarded or developmentally disabled (excluding current illegal use of or addiction to a controlled substance) persons reside, with one or more resident counselors or other staff persons. A residential facility shall be deemed a group home when the Department of Mental Health, Mental Retardation and Substance Abuse Service is the licensing authority.

Guest room. A room which is intended, arranged, or designed to be occupied, or which is occupied by one or more transient guests paying direct or indirect compensation therefore, but in which no provision is made for cooking. Dormitories are excluded from this definition.

Hair stylist. See "beauty parlor".

Hard surface. Concrete, asphalt, or a similar permanent surface shall constitute a hard surface.

Health official. The legally designated health authority of the State Board of Health for the town of New Market, or his authorized representative.

Height of building. See "building, height of".

Historic area. An area that contains buildings or places in which historic events occurred or that has special public value because of notable architecture or other features relating to the cultural or artistic heritage of the community, where such features are of such significance as to warrant conservation and protection.

Home garden. The growing of vegetables, fruit, flowers and similar produce on the same lot as a primary residential use, when such items are grown for the use of the occupants of the residence and are not sold for a fee.

Home occupation. An accessory use of a dwelling for gainful employment involving the manufacture, provision, or sale of goods and/or services, including but not limited to the short term rental of the dwelling.

Homeowners/property owners association. An association which is organized in a development in which individual owners share common interests and responsibilities in and for open space or facilities within a designated area, and administer and enforce restrictive covenants.

Hospital. An institution rendering medical, surgical or other care which is licensed as a hospital by the State Hospital Board, but which excludes institutions primarily for the care of mental or feeble-minded patients, epileptics, alcoholics or drug addicts, or for use as a sanatorium for other illness.

Hotel. Any building or portion thereof, excluding bed and breakfast establishments as defined herein, which contains guest rooms without cooking facilities which are designed or intended to be used for occupancy by fourteen (14) or more persons on a transient basis.

Improvement. Streets, sidewalks, gutters, water mains, drainage facilities, landscaping, recreational facilities, and all other such betterment as may be required under the provisions of this chapter and/or the town's Subdivision Ordinance.

Industry. Includes warehousing and manufacturing uses which produce some noise but which are of limited scale or character.

Ingress. Access or entry.

In-home day care. The provision of custodial care by the occupant of the residence on a regular basis, but for only part of the twenty-four hour day, up to nine (9) children or aged, infirm or disabled adults who reside elsewhere and are not related by blood, marriage, adoption or guardianship to the person who maintains the residence.

Junk yard. An establishment or place of business which is maintained, operated, or used for storing, keeping, housing, buying, or selling junk or for the maintenance or operation of an automobile graveyard, as defined herein.

Kennel. Any place or establishment in which dogs, cats and other domestic animals are kept, boarded, bred or trained for commercial gain.

Landfill. See "refuse disposal facility".

Landscaping. Changing, rearranging or adding to original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth, as well as preserving the original vegetation or adding vegetation.

Laundromat. A place where patrons wash, dry or dry clean clothing and fabrics in machines operated by the patron.

Lawn and garden supply stores A business that sells nursery stock, landscaping materials and equipment, lawn furniture and ornaments, mulching materials, and other similar lawn and garden supplies and materials with the storage of such materials being permitted outside subject to appropriate screening, as provided in Sec. 70-135(c).

Library. A structure, either publicly or privately owned, used for collection and storage of books, periodicals, and similar materials, and providing facilities for reading, research, and/or borrowing of the collected materials.

Livable floor area. Any section of the dwelling unit that provides adequate light, heat and electrical service and is not already designated as a closet, bathroom, hallway, kitchen or laundry room. Livable floor area does not include any common area or recreation area outside of a dwelling unit. Examples of this include common use hallways, recreation areas and maintenance facilities in an apartment or condominium.

Loading space. A space within the main building or on the same lot, unless otherwise provided by this chapter, for the standing, loading or unloading of trucks and other carriers.

Lodge, private. See "club".

Lodging house. See "rooming house".

Lot. A designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit, in accordance with the provisions and requirements of this chapter.

Lot, corner. A lot abutting two or more streets at their intersection.

Lot coverage. The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot depth. The average of the horizontal distances between front and rear lines of a lot measured perpendicular to the street line.

Lot, end. A lot upon which one of the two outer town house units within a row of town houses is situated.

Lot, interior. Any lot other than a corner lot.

Lot line. Any line dividing one lot from another.

Lot, nonconforming. See "nonconforming lots".

Lot of record. A lot or parcel of land whose existence, location and dimensions have been recorded in the clerk's office of the circuit court at the time of the adoption of this chapter.

Lot, PRMH District. An area of land not subdivided for separate ownership, but which is laid out on the Development Plan and/or site plan to delineate the placement of manufactured homes, buildings or structures within the PRMH District.

Lot, through (double frontage). A lot, other than a corner lot, having frontage on two streets.

Lot, width of. The horizontal distance between side lines of a lot measured along the building setback line.

Lumber and/or building material sales and facilities. Structure used for storage and sale of timber, beams, planks, boards and other building materials.

Main use. The primary purpose for which land, a building or buildings is used; the principal use of such land or buildings.

Manufacturing. The process and/or converting of raw, unfinished materials or products into articles or substances of different character, or for use for a different purpose.

Manufactured home. A structure subject to federal regulations, which is transportable in one or more sections; is eight (8) body feet or more in width and forty (40) body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without permanent foundation when connected to the required facilities and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Memorial. An area, which may include a monument or marker, that has been designed, established or designated to serve as a remembrance of a person or event.

Mini-warehouse/mini-storage facility. A structure or structures containing separate storage spaces of varying sizes leased or rented on an individual basis.

Mobile home. See "manufactured home".

Mobile home lot. Any area or tract of land used by or designed to accommodate one mobile home and the exclusive use of its occupants.

Mobile home park. Refer to Article XIII. of this chapter.

Mobile home stand (pad). That part of an individual mobile home lot which has been reserved for the placement of a mobile home.

Model home. A temporary or permanent structure used for the display purposes only and not as contractor's office, real estate office, or annex thereof.

Modular home. A building assembly or system of building subassemblies, including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off-site and transported to the point of use for installation or erection, with or without other specified components, as a finished building or as part of a finished building comprising two or more industrialized building units, and not designed for ready removal to or installation or erection on another site. This type of unit is included in the definition of a detached dwelling, but not manufactured or mobile home, for the purposes of this chapter.

Monument works. A place for the carving and working of stone and other materials for the purpose of making burial monuments and similar markers.

Motel. A building or portion thereof, or a group of buildings of similar design, providing transient accommodations, with each room having a parking space, and with at least twenty-five (25) percent of the rooms having a private exterior entrance. The term "motel" includes but is not limited to motor courts, motor inns, motor lodges, and roadside hotels.

Multi-family dwelling. See "dwelling, multi-family".

Museum. Facility used for the primary purpose of displaying artifacts, art work, historical documents, photographs, costumes and other natural or man-made objects. The facility may include such customary accessory uses as meeting rooms and lecture halls.

Nonconforming activity/use. An activity or use which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Nonconforming lot. A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Nonconforming structure. A structure or building, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoptions, revision or amendment to conform to the present requirements of the zoning district.

Non-profit organization. An incorporated organization or group whose charter prohibits profit-making endeavors, and which enjoys tax-exempt privileges.

Night club. An establishment which includes, in addition to the serving of food and entertainment, the provision for dancing and sale of legal beverages to the public.

Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

Nursery. Land or greenhouses or similar structures used to raise flowers, shrubs and other plants for sale or transplanting.

Nursing home/ convalescent home/ rest home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Office. A building, room or group of rooms used for conducting the affairs of a business, profession, service or government. For the purpose of this chapter, an office shall not involve manufacture, fabrication, production, processing, assembling, cleaning, testing or repair of materials, goods or products, or the sale of merchandise.

Official zoning map. The legally adopted zoning map of New Market, Virginia.

Off-street parking area. Space provided for vehicular parking outside the dedicated street right-of-way.

Open space. That space on the same lot and contiguous to the principal building or buildings, except as herein noted, which is either landscaped with shrubs, planted with grass or developed and maintained for recreational purposes, and excluding streets, drives, and off-street parking and loading areas.

Outdoor storage area. Any unroofed area, or a roofed structure enclosed on not more than three sides, for the keeping of any goods, materials or merchandise.

Overhang. Any projection, either roof, bay window or similar cantilevered construction, which extends beyond the foundation of a structure.

Overlay district. Zoning requirements that are described in the chapter text and map, and imposed in addition to those of an underlying district; buildings, structures and uses within the overlay district must conform to the requirements of both districts or the more restrictive of the two.

Parcel. A lot or tract of land.

Parking aisle. The traveled way by which motor vehicles enter and depart parking spaces.

Parking lot. A tract of land which is used for the temporary parking, but not storage, of motor vehicles and accessory vehicles.

Parking space. An area specified in Sec. 70-150 of this chapter, such space being exclusive of necessary aisles, entrances or exits and being fully accessible for the parking of vehicles.

Parking structure. A deck, building or structure of part thereof used for the parking, but not storage, of vehicles, available to the public with or without compensation, or used to accommodate clients, customers or employees.

Party wall. A common, shared fire wall between two separate structures, buildings or dwelling units.

Pawn shop. A shop where the operator loans money on the security of personal property pledged in his keeping.

Permitted use. See "use, permitted"

Personal service establishment. Any business or establishment where a service is sold directly to a customer, excluding medical, dental or veterinary services. Such uses shall exclude the sale of merchandise, with the exception of incidental supplies that are directly associated with the primary service. The following will serve as an illustration: shoe repair; watch and clock repair; beauty or barber shop; caterer; locksmith; tailor or dressmaker.

Pet shop. A shop for the selling of pets and incidental associated supplies, excluding kennel activities or outside storage of animals.

Planned development. An area of land to be developed as a single entity according to the provisions of Article XIII. of this chapter.

Planning Commission. The Planning Commission of New Market, Virginia.

Portable Storage Containers. A portable, weather-resistant receptacle designed and used for the temporary storage of shipment items. The term shall not include dumpsters or refuse containers.

Poultry house. Any structure designed for the keeping, breeding or raising of chickens or turkeys.

Premises. A parcel of land, together with any buildings or structures occupying it.

Principal use. See "main use".

Private medical transport service. An establishment primarily engaged in furnishing for hire or reward a local passenger transportation service for non-emergency medical purposes, including but not limited to doctor's office, treatment centers, physical therapy, hospital admission/discharge.

Professional office/professional office building. A building, room or rooms constructed or converted for a principal use as space for a person or persons in offering a service which requires specialized knowledge, such as a doctor, lawyer, engineer, architect, dentist, realtor, insurance agent or similar occupations, where no merchandise is sold.

Proffer. A condition voluntarily offered by a property owner that limits or qualifies how the property in question will be used or developed, in accordance with the provisions of Section 70-188.1 of this chapter.

Projection. Building features which extend outward beyond the footprint of a structure's foundation including, but not limited to decks, patios, chimneys, open fire escapes, and bay windows.

Public use. A use owned and/or operated by a governmental agency or department.

Public utility. Any person, firm, corporation, municipal department or board duly authorized to furnish, and furnishing under federal, state or municipal regulations to the public electricity, gas, steam, communications, telegraph, transportation, or water and sewer services.

Public utility, major. Electric substations and other distribution centers; electric transmission lines equal to or greater than 69,000 volts; sewerage treatment and disposal facilities; storage facilities for natural gas, oil and other petroleum products; supply yards for any public utility; dial centers; repeater stations; water purification facilities; microwave facilities; satellite earth stations; water storage facilities; and maintenance facilities incidental to any use set forth above.

Public utility, minor. Electric transformer; electric transmission lines less that 69,000 volts; natural gas; telecommunication facilities (including but not limited to exchanges); water and sewer transmission, collection, distribution and metering devises; and water and sewerage pumping stations.

Radio or television station facilities. A broadcasting facility licensed by the FCC, which may include transmitting and receiving equipment, studios, offices, utility buildings and other necessary accessories needed to operate the facility.

Rear lot line. That line of a lot which is opposite and farthest from the front lot line.

Recreation facility. A facility offering or providing recreational activities.

Recreational equipment, major. Travel trailers, pickup campers, motorized trailers, houseboats and the like, and cases or boxes used for the transportation of such recreational equipment, whether occupied by such equipment or not.

Recreational Vehicle. A vehicle which is built on a single chassis; is 400 square feet or less when measured at the largest horizontal projection; is designed to be self-propelled or permanently towable by a light duty truck; and is designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational camping, travel, or seasonal use.

Refuse disposal facility (sanitary landfill). Any site or operation used for the disposal of refuse, and which meets the standards and specifications of the state and/or county. For the purposes of this chapter, this definition shall exclude publicly owned or operated recycling collection centers that have been approved by the town council.

Rendering plant. A facility used or designed to be used for the purpose of converting dead animals into a product or products for other than human consumption.

Required open space. Any space required in any front, side or rear yard unless otherwise defined in this chapter.

Retail floor space. Interior floor area devoted to display and sale of goods open to the public, excluding storage areas and shipping docks.

Retail use. Any use wherein the primary occupation is the direct sale of merchandise, in small quantities, not in bulk, for use or consumption by the immediate purchaser. The following will serve as an illustration: gift shop; florist; clothing store; drug store; candy store; furniture store.

Rescue mission. For the purposes of this chapter, a rescue mission shall refer to facilities that are established as an accessory use of a church or other place of worship, as herein defined, where food and lodging are provided for indigent or transient persons.

Resort. A commercial facility to which people come for vacations and relaxation, where food, lodging and specialized recreational uses, such as a golf course or skiing, are provided. A resort shall exclude a hotel or motel which provides the customary accessory recreational uses, such as a swimming pool, but which offers no specialized recreational facilities.

Restaurant. See "eating establishment".

Rest home. See "convalescent home".

Retirement home. See "elderly housing".

Re-upholstery shop. An establishment where, in accordance with all applicable state requirements and codes, minor repair, re-filling, and re-covering of existing furniture is done. Such use shall exclude the stripping and refinishing of furniture and the manufacture of new furniture.

Review Board. See Sec. 70-106 of this chapter.

Right-of-way. A strip of land acquired by reservation, dedication, prescription, or condemnation which is occupied by or is to be occupied by a road, pedestrian, crosswalk, electric transmission lines, oil or gas pipe lines, sanitary storm sewer, and other similar uses.

Right-of-way line. The dividing line between a lot, tract or parcel of land and a contiguous street, railroad or other right-of-way.

Roadside stand or market. See "wayside stand".

Rooming house/lodging house. A building other than a hotel where lodging is provided for more than three (3) persons for compensation pursuant to previous arrangements, but not open to the public or transients.

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls or densely planted vegetation.

Semi-public use/ community service use. A use owned and/or operated by a non-profit organization which serves the general public through the delivery of services that are typically government oriented or government funded.

Service station. See "automobile service station".

Setback. The minimum distance by which any building or structure must be separated from the lot line.

Shopping center. Commercial development of one (1) or more individual retail sales or service establishments where the aggregate retail floor space is 15,000 square feet or greater; located on a single parcel of common ownership, attached by common walls (if more than one establishment); providing common parking facilities for all establishments; having multiple tenancy (if more than one establishment) of a single or several large common structures; and being of a single development or several phases of a single comprehensive development.

Short-term rental. The provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Sketch plan. An informal plan, not necessarily to exact scale, indicating salient existing features of a tract and its surroundings and the general layout of proposed development.

Site plan. A plan, drawn to scale, showing uses and structures proposed for a parcel of land and such other requirements as are set forth in Article XVII. of this chapter.

Stacking space. Parking spaces arranged in a line and used by vehicles wishing to access a drive-up window.

Start of construction. The actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pipes, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; it does not include excavation for a basement, footings, piers or foundations or the erection of temporary accessory buildings, such as garages or sheds not to be occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling floor or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

Story. That portion of a building included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it. A basement or cellar shall be counted as a story if its ceiling is over five (5) feet above the level from which the height of the building is measured, or if it is used for business or dwelling purposes. Each level of a split-level building, excluding basements or cellars as provided above, shall be considered one half story.

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 of the floor area is finished for use.

Street (road). A dedicated and opened public thoroughfare which affords a principal means of access for motorized vehicles to abutting property and to other streets.

Street line. The dividing line between a street or road right-of-way and the contiguous property.

Structural alteration. Any change in the supporting members of a building or structure, such as bearing walls, partitions, columns, beams or girders, or any change in the width or number of exits, or any substantial change in the roof.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground. This includes, among other things, dwellings, buildings and signs, but excludes approved utility poles and similar items.

Structure, outdoor advertising. Any structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any outdoor advertising sign may be placed, including also outdoor advertising statuary.

Subdivision. The process and result of dividing a property or parcel of land into smaller individual parcels, lots or buildable sites.

Substantial improvement. Any construction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement.

Surveyor. A surveyor licensed by the Commonwealth of Virginia.

Tattoo parlor Any place in which it is offered or practiced the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

Temporary use. A use established for a fixed period of time with the intent that such use will terminate upon the expiration of the fixed time period, unless permission to conduct the use is renewed pursuant to this chapter.

Theater, indoor. A structure designed for the enactment of dramatic performance and/or the showing of motion pictures. For the purpose of this chapter, drive-in motion picture theater and an adult mini-motion picture theater shall be deemed prohibited uses.

Tire dump. A disposal facility created for defective, worn or damaged tires.

Tourist home. See "bed and breakfast establishment".

Town house. See "dwelling, single family attached".

Transient. A paying guest staying no more than fourteen (14) days at a time in any bed and breakfast establishment, hotel or motel.

Travel trailer. A vehicular, portable structure designed as a temporary dwelling for travel, recreational and vacation use, which is identified on the unit by the manufacturer as a travel trailer and does not exceed eight (8) feet in body width.

Upholstery shop. An establishment where, in accordance with all applicable state requirements and code, new furniture is manufactured, packed with filling material, and covered with fabric, vinyl, leather or similar materials.

Usable open space. An unenclosed portion of a lot which, except as herein noted, is not devoted to driveways, parking spaces or structure.

Use. The purpose or activity for which land or building thereon are designed, arranged or intended, of for which it is occupied or maintained, and any manner of performance of such activity with respect to the performance standards of this chapter.

Use, accessory. See "accessory use, building or structure".

Use, conditional. A use which may be allowed when the town council, after review and public hearing, finds as a fact that the proposed use or uses are consistent with the Comprehensive Plan and the policies of the town, the standards of this chapter and the public interest.

Use, permitted. Any use allowed in a zoning district by right.

Use, prohibited. Any use not specifically permitted shall be prohibited.

Variance. A relaxation of the terms of this chapter by the Board of Zoning Appeals under procedures in accordance with the provisions of Article XIX. of this chapter.

Veterinary hospital. See "animal hospital".

Warehouse. A structure or part of a structure used primarily for the storage of goods and materials, which may also include wholesale sales.

Waste incinerator. A furnace or other apparatus for burning waste, including but not limited to medical, industrial or chemical waste.

Wayside stand. A temporary structure designed for the display and sale of local agricultural products.

Wholesale sales. An operation which sells chiefly to retailers, other merchants, or industrial, institutional and commercial uses mainly for resale or business use.

Yard. The area on a lot situated between the front, rear or side wall of a structure and the nearest lot line, unobstructed from the ground upward, and unoccupied except by specific uses and structures allowed in such area by the provisions of this chapter.

Yard, front. A yard extending across the full width of the lot and lying between the front property line of the lot and the nearest line of the principal building.

Yard, rear. A yard extending across the full width of the lot and lying between the rear property line of the lot and the nearest line of the principal building.

Yard, side. A yard between the side line of the lot and the nearest line of the principal building, and extending from the front yard to the rear yard or, in the absence of either of such yards, to the front or rear lot line; except, that on a corner lot the side yard adjacent to a street shall extend the full depth of the lot.

Zoning administrator. "See administrative official".

Zoning Board. The Board of Zoning Appeals of New Market, Virginia.

Zoning certificate. Official certification, issued upon the completion of work for which a zoning permit was issued, that the structure, building or land complies with the provisions of this chapter and may be used or occupied. A zoning certificate shall also be issued for nonconforming uses and for a mobile home placed in a PRMH district, as required by the provisions of this chapter.

Zoning map. See "official zoning map".

Zoning permit. A permit issued by the zoning administrator indicating that the submitted plans comply with this chapter and that the use or structure proposed is allowable by this chapter, or has been allowed by the granting of a conditional use permit by the town council, or a variance by the board of zoning appeals.

Sec. 70-10.1 Supplemental Definitions – Adult Businesses

Notwithstanding any contrary provision, Adult Businesses are distinct from and mutually exclusive of all other uses defined or referenced in this chapter. Accordingly, if a use falls within the definition of an Adult Business, it cannot qualify as a "retail store," "restaurant," or other use.

For the purposes of this chapter, the following definitions apply:

Adult Business An Adult Business is (i) an Adult Theatre, (ii) Adult Store, (iii) any business providing Adult Entertainment, or (iv) any other establishment that regularly emphasizes materials or demonstrations relating to Specified Sexual Activities or Specified Anatomical Areas or is intended for the sexual stimulation or titillation of patrons.

Adult Theatre An establishment which presents for the viewing or listening of patrons materials characterized by (i) their emphasis on Specified Sexual Activities or Specified Anatomical Areas or (ii) the intent to provide sexual stimulation or titillation of patrons.

Adult Store An establishment which sells or rents the following:

(a.) Materials (whether printed or in electronic, optical, magnetic, or other media) characterized by:

1. Their emphasis on Specified Sexual Activities or Specified Anatomical Areas or

2. Their predominant purpose being to provide sexual stimulation or titillation of patrons, or

(b.) Toys, novelties, instruments, devices or paraphernalia which represent human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

Nevertheless, if the aforementioned items constitute only an insubstantial portion of an establishment's stock-in-trade, the establishment shall not be considered an Adult Store. For purposes of this paragraph, an "insubstantial portion" is less than five percent of the establishment's stock-in-trade.

Adult Entertainment Is dancing, modeling, or other live performances in which the performance (i) is characterized by an emphasis on Specified Anatomical Areas or Specified Sexual Activities, or (ii) is intended for the sexual stimulation or titillation of patrons. Adult Entertainment also includes the presentation of materials or images (irrespective of the media) characterized by their emphasis on Specified Sexual Activities or Specified Anatomical Areas or the intent to provide sexual stimulation or titillation of patrons.

Specified Anatomical Areas They are as follows:

(a.) If less than completely and opaquely covered: human genitals, pubic region, buttock; and the female breast below a point immediately above the top of the areola, and

(b.) Irrespective of coverage: human male genitals in a discernibly turgid state.

Specified Sexual Activities They are as follows:

(a.) The display of – or the reference to – human genitals in a state of sexual stimulation or arousal;

(b.) Acts of human masturbation, sadomasochistic abuse, sexual penetration with an inanimate object, sexual intercourse or sodomy, or

(c.) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Intentionally Left Blank