

**Town of Valdese
Town Council Meeting
Valdese Town Hall
102 Massel Avenue SW, Valdese
Monday, April 4, 2022
6:00 P.M.**

- 1. Call Meeting to Order**
- 2. Invocation**
- 3. Pledge of Allegiance**

4. Informational Items:

- A. Communication Notes
- B. Reading Material

5. Open Forum/Public Comment

6. Consent Agenda

All items below are considered to be routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item 7.

- A. Approval of Regular Meeting Minutes of March 7, 2022
- B. Approval of Budget Retreat Minutes of March 23 & 24, 2022
- C. Set Sunday, April 10, 2022 as Tax Lien Advertising Date for Real Property
- D. Spring Litter Sweep, April 16-30, 2022
- E. Request from American Legion Post 234 to Sell Beer at Town Sponsored Events
- F. Set Public Hearing Date for Re-Zoning of Town-Owned Property on Pineburr Ave.

7. New Business

- A. Introduction of New Employees
- B. Public Hearing for Meridian Yarns Water Community Development Block Grant Close-Out
- C. Resolution for SRF/ARPA Funding Application - Division of Water Infrastructure
- D. Adoption of the FY 2022-2023 Utility Capital Improvements Plan
- E. Sewer Line Repair Across from Town Hall
- F. Engineering Contract for Valdese Bluffs Water/Sewer Design
- G. Proposed Town Wide Paving Assessment
- H. Resolution of Sale of Town-Owned Property Located at 204 Janavel Ave. SW
- I. Amendments to the Animal Control Ordinance
- J. Senate Bill 300 Police Ordinance Changes
- K. Kenwood Radios for Viper System
- L. Awarding Contract for Pool Boiler Replacement
- M. Budget Amendments
- N. Capital Project Budget Ordinance – Valdese Bluffs Water Line Extension
- O. Capital Project Budget Ordinance – Valdese Bluffs Sewer Line Extension

8. Manager's Report

- A. Coffee with the Chief, Thursday, April 14, 2022, 9:00 a.m. at Old World Baking Company

- B. Town Council Budget Workshop Dinner Meeting, Thursday, April 14, 2022, Old Rock School, Waldensian Room, 6:00 p.m.
- C. Town Offices closed Friday, April 15th, 2022 in observance of Good Friday Holiday
- D. Town Council Budget Workshop #2 Meeting, Monday, April 25, 2022, Old Rock School, Waldensian Room, 6:00 p.m.
- E. Spring Craft Market, Saturday, April 30th, 2022, ORS Temple Field, 9:00 am
- F. Next Council meeting scheduled for Monday, May 2, 2022, 6:00 p.m.

9. Mayor and Council Comments

10. Adjournment

COMMUNICATION NOTES

To: Mayor Watts
Town Council

From: Seth Eckard, Town Manager

Date: April 1, 2022

Subject: Monday, April 4, 2022 Council Meeting

6. Consent Agenda

A. Approval of Regular Meeting Minutes of March 7, 2022

B. Approval of Budget Retreat Minutes of March 23 & 24, 2022

C. Set Sunday, April 10, 2022 as Tax Lien Advertising Date for Real Property

Staff recommends the aforementioned date be set as Tax Lien Advertising Date for real property.

D. Spring Litter Sweep, April 16-30, 2022

Enclosed in the agenda packet is information from NC Department of Transportation regarding the Biannual Cleanup Drive to be held April 16-30, 2022.

E. Request from American Legion Post 234 to Sell Beer at Town-Sponsored Events

Enclosed in the agenda packet is a request from American Legion Post 234, Ladies Auxiliary to sell beer at the Independence Day Celebration on July 1, 2022, from 5:00 p.m. until 11:00 p.m., and the 47th Annual Waldensian Festival events on August 12, 2022, from 5:00 p.m. until 11:00 p.m., and August 13, 2022, from 5:00 p.m. until 10:00 p.m.

F. Set Public Hearing Date for Re-Zoning of Town-Owned Property on Pineburr Ave.

Enclosed in the agenda packet are a memo and a location map from the Planning Department requesting that Council set a public hearing date on Monday, May 2, 2022, for the re-zoning of Pineburr Ave. Mill property.

7. New Business

A. Introduction of New Employees

Police Chief Jack Moss will introduce Police Officer Jason Xaysana. Public Services Director Greg Padgett will introduce Street Maintenance Worker Josh Davis. Finance Director Bo Weichel will introduce Customer Service Representative Angel Mitchell.

B. Public Hearing for Meridian Yarns Water Community Development Block Grant Close-Out

WPCOG Community Development Administrator Erin Schotte will present the closeout of the Meridian Yarns Water Project, Community Development Block Grant (CDBG) Number 14-E-2698. The grant-funded project installed a generator, valve, and associated appurtenances at the Valdese Water Treatment Plant. The Water Treatment Plant improvements enabled a local business—Meridian Yarns—to expand their operations into a new building addition and to retain 146 employees. The project cost was \$1,000,000, and CDBG funds provided 100% of the total expenditures. Final grant monitoring and reporting have been completed, and a public hearing is required to close out the grant project.

C. Resolution for SRF/ARPA Funding Application – Division of Water Infrastructure

Enclosed in the agenda packet is an authorizing Resolution application for funding from NC DEQ Division of Water Infrastructure for upgrades at the Valdese Water Treatment Plant. Public Services Director Greg Padgett will be at the meeting to present.

Requested Action: Staff requests that Council approve the Resolution authorizing Town Manager Seth Eckard to execute and file an application with the State of North Carolina for funding to aid in the upgrades.

D. Adoption of FY 2022-2023 Utility Capital Improvements Plan

Enclosed in the agenda packet is the Water and Sewer Utility Capital Improvements Plan and a Resolution to adopt the FY 2022-2023 10-year Water and Sewer Utility Capital Improvements Plan. The updated plan was presented to Council at the March 24, 2022, Annual Budget Retreat. Note: The CIP needs to be adopted early to apply for the SRF/ARPA application funding.

Requested Action: Staff recommends that Council adopt the FY 2022-2023 Utility Capital Improvements Plan as presented.

E. Sewer Line Repair Across from Town Hall

Enclosed in the agenda packet is a memo and map location from Public Services Director Greg Padgett. The request is to appropriate funds to repair approximately 590 linear feet of sewer line across from Town Hall, south of the railroad tracks. The failing sewer line was identified as part of the AIA Wastewater grant project that was shared at the March 7, 2022, Council meeting.

The cost of the project is \$59,025.00, and it would consist of replacing the 8" terra cotta (clay) sewer line with an 8" PVC DR 26 line. Three new manholes will be installed as part of this repair and are included in the price. Mr. Padgett solicited quotes from contractors, and Hickory Sand Co., Inc. came in at the lowest. Mr. Padgett will be at the meeting to present.

Requested Action: Staff requests Council approve the sewer line repair work in the amount of \$59,025.00 with Hickory Sand Co., Inc.

F. Engineering Contract for Valdese Bluffs Water/Sewer Design

Enclosed in the agenda packet is a memo from Public Services Director Greg Padgett and an engineering contract from McGill Associates for the Valdese Bluffs Water/Sewer design for the amount of \$112,780. The 2021 American Rescue Plan (ARP) provides funds, through the State Fiscal Recovery Fund, that the NC General Assembly allocated as 100% grants. The Town of Valdese received a grant in the amount of \$801,983 for the extension of water and wastewater service to the Valdese Bluffs Development.

Requested Action: Staff requests Council approve the engineering contract with McGill Associates for the design of the water and sewer extension for Valdese Bluffs in the amount of \$112,780.

G. Proposed Town Wide Paving Assessment

Enclosed in the agenda packet is a memo from Public Services Director Greg Padgett requesting funds for the hiring of J.M. Teague to perform a Pavement Condition Survey (PCS). The last town-wide paving assessment was completed in 2015, and it is recommended to be completed every three-five years. Staff recommends J.M. Teague to perform the assessment in the amount of \$14,300. Included in the agenda packet is a proposal and scope of services for the pavement condition assessment and a sample from the Town of Rutherfordton, NC, so you can see what the final product would look like. Staff would like to also request a sidewalk assessment at the same time by J.M. Teague. There would be an additional cost to be determined if Council is interested.

Requested Action: Staff requests Council approve the Pavement Condition Survey to be completed by J.M. Teague in the amount of \$14,300 and a possible sidewalk assessment.

H. Resolution of Sale of Town-Owned Property Located at 204 Janavel Ave. SW

At the March 7, 2022 meeting, Council adopted a resolution proposing the acceptance of an offer to purchase town-owned property at 204 Janavel Ave., Valdese. In accordance with G.S. 160A-269, a notice was published detailing Council's intent to accept the offer and informed the public that any person could raise the bid. After receiving no additional bids, the highest bid received was from Ned Fowler, in the amount of \$25,000. Enclosed in the agenda packet is a resolution approving the sale of the property.

Requested Action: Staff recommends that Council approve the sale of the property located at 204 Janavel Ave., Valdese, to Ned Fowler for the purchase price of \$25,000.

I. Amendments to the Animal Control Ordinance

Enclosed in the agenda packet is a memo from Town Attorney Tim Swanson and an Ordinance Amending the Animal Control Ordinances. In 2021, Council voted to update the pay classification that added the Code Enforcement/Animal Control Officer job title. At that time, the Animal Control position was currently in Public Works but was re-organized to the Police Department by adding Code Enforcement. This amendment to the Ordinance will move the Town's Animal Control service under the supervision of the Police Chief.

Requested Action: Staff recommends that Council approve the amendments to the Animal Control Ordinance as presented.

J. Senate Bill 300 Police Ordinance Changes

Enclosed in the agenda packet is a memo from Town Attorney Tim Swanson and a draft Ordinance change to the NCGS 160A-175(b). Mr. Swanson has identified the provisions that will require revision under Senate Bill 300. Mr. Swanson will be at the meeting to present.

K. Kenwood Radios for Viper System

Enclosed in the agenda packet is a memo and presentation from Police Chief Jack Moss for the approval of purchasing 16 handheld radios and 22 mobile radios. The Police Departments' current radios are not compatible with the new Viper System requirements. The cost of the radios is \$83,177.04. Chief Moss will be at the meeting to discuss.

Requested Action: Staff recommends that Council approve the purchase of the radios in the amount of \$83,177.04.

L. Awarding Contract for Pool Boiler Replacement

Enclosed in the agenda packet is a memo, presentation, and award of contract from Parks & Recreation Director David Andersen to replace the pool boiler. The existing boiler for the pool has suffered a major failure in the heat exchanger. Given the age and condition of the boiler, the Parks and Recreation staff recommend a replacement of the existing boiler. Staff is recommending the bid go to Hickory Sheet Metal Co., of Hickory, NC, not to exceed \$25,000. (Other bid: Link Boiler and Mechanical of Hickory, NC - \$24,800)

Requested Action: Staff recommends that Council award Hickory Sheet Metal, Co., to replace the pool boiler in the amount of \$25,000.

M. Budget Amendments

Enclosed in the agenda packet are budget amendments prepared by Finance Director Bo Weichel. These amendments will move funds to the appropriate accounts. Mr. Weichel will be at the meeting to present.

Requested Action: Staff recommends that Council approve the budget amendments as presented.

N. Capital Project Budget Ordinance – Valdese Bluffs Water Line Extension

Enclosed in the agenda packet is a Capital Project Budget Ordinance prepared by Finance Director Bo Weichel for the Valdese Bluffs Water Line Extension. These will move funds to appropriate account. Mr. Weichel will be at the meeting to present.

Requested Action: Staff recommends that Council approve the Capital Project Budget Ordinance as presented.

O. Capital Project Budget Ordinance – Valdese Bluffs Sewer Line Extension

Enclosed in the agenda packet is a Capital Project Budget Ordinance prepared by Finance Director Bo Weichel for the Valdese Bluffs Sewer Line Extension. This will move funds to appropriate account. Mr. Weichel will be at the meeting to present.

Requested Action: Staff recommends that Council approve the Capital Project Budget Ordinance as presented.

READING MATERIAL

VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT**FEBRUARY 1st-28th, 2022**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF FEBRUARY, 2022. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>MONTHLY TOTAL</u>
STATION DUTY	174 HOURS
VEHICLE DUTY	96 HOURS
EQUIPMENT DUTY	62 HOURS
EMERGENCY RESPONSES (ON DUTY)	51 HOURS
TRAINING (ON DUTY)	78 HOURS
FIRE ADMINISTRATION	229 HOURS
TRAINING ADMINISTRATION	7 HOURS
MEETINGS	32 HOURS
FIRE PREVENTION ADMINISTRATION	74 HOURS
FIRE PREVENTION INSPECTIONS	31 HOURS

<u>TYPE</u>	<u>NUMBER OF INSPECTIONS</u>	<u>VIOLATIONS</u>
ASSEMBLY	3	11
BUSINESS	1	0
DAYCARE	0	0
FACTORY	2	48
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	3	26
RESIDENTIAL	0	0
STORAGE	0	0
UTILITY/MISC	0	0
REINSPECTIONS	<u>18</u>	<u>65</u>
TOTAL:	27	150

PUBLIC RELATIONS	1 HOURS
HYDRANT MAINTENANCE	0 HOURS
SAFETY ADMINISTRATION	24 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS	9 HOURS
EXTRA DUTY FIRES	15 HOURS
NON-DEPARTMENTAL DUTIES	0 HOURS
EXTRA DUTY TRAINING	61 HOURS
EXTRA DUTY FIRE/MED STANDBY	0 HOURS
PHYSICAL TRAINING	16 HOURS
EXTRA DUTY MEDICAL RESPONSES	16 HOURS
VOLUNTEER FIREFIGHTER TRAINING	49 HOURS
TOTAL TRAINING MANHOURS:	188 HOURS

FIRE DEPARTMENT EMERGENCY RESPONSES:

<u>FIRE:</u>	<u>MONTHLY TOTAL</u>
FIRE ALARM	6
CARBON MONOXIDE ALARM	1
MUTUAL AID TO STATION 63	1
MUTUAL AID TO STATION 67	2
ELECTRICAL HAZARD	1
ILLEGAL BURN	0
SMOKE SCARE/INVESTIGATION	0
SERVICE CALL	1
VEHICLE FIRE	0
FIRE STANDBY	<u>1</u>
	13
 <u>MEDICAL:</u>	
ABDOMINAL PAIN	1
ALLERGIC REACTION	0
ANIMAL BITE	1
ASSAULT	0
ASSIST EMS	3
BACK PAIN	0
CANCELLED ENROUT	0
CARDIAC	0
CHEST PAIN	2
CHOKING	0
CODE BLUE	0
DIABETIC	0
DOA	0
FAINTING	0
FALL	4
HEADACHE	0
HEMORRHAGE	0
MOTOR VEHICLE ACCIDENT	1
MEDICAL STANDBY	0
OTHER	3
OVERDOSE/INTOXICATED	0
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	3
SEIZURE	0
SICK	3
STROKE	0
TRAUMATIC	0
UNCONSCIOUS	2
UNKNOWN	<u>0</u>
	23
 <u>TOTAL RESPONSES:</u>	<u>36</u>

GREG STAFFORD, CHIEF
VALDESE FIRE DEPARTMENT

Community Affairs & Tourism Monthly Stats

March 2022

Tourism Statistics

visitvaldese.com Visits (reported from March (1-20)) 2,184

townofvaldese.com Visits(reported from March (1-20)) 3,761

Top 5 Pages Viewed: Utilities, Recreation, Aquatics, Career Opportunities,Blog: How to Pay Utility Bill

Facebook

of followers 14,163

Post Engagement (last 28 days) 15,110

Post Reach (last 28 days) 35,510

Zoho Social Media Monthly Report: Positive vs. Negative Feedback

Positive: 99.56%

Negative: .44%

TOP FIVE MARKETS: Morganton, Valdese, Hickory, Lenoir, Drexel

Approximate # of Visitors to the Tourism/CA Office 287

Community Affairs Stats

Old Rock School Rental Breakdown

AUDITORIUM	0
TEACHER'S COTTAGE	9
WALDENSIAN ROOM	8
CLASSROOMS	1
MAJOR EVENT (ENTIRE SCHOOL)	3

Major Events Held at the Old Rock School	Average Number of Attendees
BCPS Mathcounts, Malpass Brothers Concert, Sister Sadie	350

Monthly Old Rock School Rentals 20

Old Rock School Total Attendance 1,780

CA Summary for March 2022

Bluegrass, Spring & Summer event preparation, and facility rentals kept Community Affairs busy throughout the month of March. The Old Rock School hosted two Bluegrass at the Rock concerts: Sister Sadie and The Malpass Brothers. These two concerts produced a total of 661 tickets sold. The 2022-2023 season lineup was announced and has already sold over 45 season ticket passes so far. The Main Street Committee Meeting was held on Thursday, March 10 and multiple downtown improvement projects were discussed, along with organization of Summer Merchant Distribution Packets. The second annual Lucky Leprechaun Hunt was a success, generating lots of Downtown foot traffic as families joined in on the scavenger hunt. Over 200 leprechauns were hidden along Main Street. The Old Rock School saw another busy month of rentals, hosting several events including: The Rock School Arts Foundation Reception, Burke County Schools Math Counts Competition, Town of Valdese Annual Budget Retreat and multiple independent luncheons and parties. Preparation also continued for the Spring Craft Market, Family Friday Nights Summer Concert Series, and the Waldensian Festival. Day to day projects included working on merchant summer event packets, tourism rackcard design, and newsletter creation/distribution.

VALDESE POLICE DEPARTMENT

Jack W. Moss
Chief of Police
Post Office Box 339
121 Faet Street
Valdese, North Carolina 28690

Telephone 828-879-2109
Fax 828-879-2106

Mar 30, 2022

To: Seth Eckard
From: Chief Moss
Re: Boots on the ground

Progress reports: Boots on the Ground

Location:

Officer Visits:

McGalliard Falls	77	Visual Checks / Walk around
Old Rock School	64	Visuals Checks / Walk around
Children's Park	49	Visual Checks / Walk around
Community Center	30	Visual Checks / Walk around
Lakeside Park	22	Community Contact
Main St Extra Patrol		Nightly Door Checks
Business/Residential Contact	54	Community Policing
Family Fun Night	0	Community policing
Myra's Car show		When event takes place now

Our officer have logged 384 residential/business security checks, 428 extra patrols and 54 community policing contacts in 30 days for a total of 866 events related to the safety, security and public interest. These checks and extra patrols include all of the standard residential checks, business, and boots on the ground CAD logs.

March 7, 2022, MB#31

**TOWN OF VALDESE
TOWN COUNCIL REGULAR MEETING
MARCH 7, 2022**

The Town of Valdese Town Council met on Monday, February 7, 2022, at 6:00 p.m., in the Town Council Chambers at Town Hall, 102 Massel Avenue SW, Valdese, North Carolina. The following were present: Mayor Charles Watts, Councilwoman Frances Hildebran, Councilwoman Rexanna Lowman, Councilman J. Andrew Thompson, Councilman Paul Mears, and Councilman Keith Ogle. Also present were: Town Attorney Tim Swanson, Town Manager Seth Eckard, Town Clerk Jessica Lail, and various Department Heads.

Absent: None

A quorum was present.

Mayor Watts called the meeting to order at 6:00 p.m. He offered the invocation and led in the Pledge of Allegiance to the Flag.

OPEN FORUM/PUBLIC COMMENT: Mayor Pro Tem Frances Hildebran read the Rules & Procedures for Public Comment:

Rule 5. Public Comment

Any individual or group who wishes to address the council shall inform the town clerk, any time prior to the start of the meeting, and provide their name, address and subject matter about which they wish to speak. Comments should be limited to five minutes per speaker.

PUBLIC SAFETY BUILDING – DR. ROBERT STEVENSON, 1009 CREEKSIDE DR., VALDESE: Dr. Stevenson shared that he is very proud of Valdese and our services we offer. Dr. Stevenson shared that Valdese is in the top 10% of the citizens' safety from crime. Dr. Stevenson said if we want this to continue, we need a safe and secure facility for our staff to work in. Dr. Stevenson does not think the Town should sell the Pineburr Property as requested by an LLC. Dr. Stevenson feels that a new facility will help with the recruitment and retention of employees and does not think we should delay in action.

PUBLIC SAFETY BUILDING – GLENN HARVEY, 801 MICOL AVE NE, VALDESE: Mr. Harvey read the following and provided a copy to the Town Clerk. Comments are verbatim:

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TOWN COUNCIL MEETING – MARCH 7, 2022 Glenn Harvey

Mayor and members of Council...

Will you please remove the Feb 15 minutes from the consent agenda and correct the minutes with a reference to the petition that was submitted to the Town Clerk? Those 80 residents who live near the proposed property site, feel that they need to be heard.

NEXT, REGARDING ITEMS I SUBMITTED – BUT HAVE NOT BEEN ACKNOWLEDGED.

- Copy of petitions with 250 signatures; will that be cited in these minutes as matter of record?
- Facebook report regarding thousands of residents who support the renovation option.
- Email exchange with the Finance Director regarding payments to the architect.
- My letter to Mayor, on behalf of a private investor's offer to purchase the 18 acres Pineburr site for its tax value of \$312,000; with OTP and 10% EMD check to town attorney?
- Council members are you aware of any other parties expressing interest in that property?

NOW, FOR THE QUESTIONS THAT ARE ON THE MINDS OF SO MANY CITIZENS...

HOW DID WE GET HERE – WHY IS OUR TOWN MANAGER SINGULARLY FOCUSED ON NOTHING EXCEPT THE COSTLIEST OF ALL POSSIBLE FACILITY SOLUTIONS - HOW CAN WE GET OUR TOWN BACK

- Let me read a sentence from tonight's agenda package that sums up the misinformation – "As council is aware, the Town has been evaluating options for the future of the Public Safety Building since 2018" – what could be farther from the truth?
- In 2018 the Town developed the Action Plan that is on the Town website. It cites 49 items that were considered but – ZERO mention of public safety building. In August 2018, Mayor Black announced that the TC consensus was to repair the PS Bldg – for estimated cost of \$700,000 – would take up at next meeting when staff has more details.
- From that point until today, the staff has run with an apparent obsession for a new building, recommending an architecture design contract, recommending purchase of land, spending \$170,000 to have architect develop estimates – THE ONLY OPTION CONSIDERED SINCE.
- This Town Council and all of us citizens have been barraged with false, misleading, and biased information. One of you reported in July that the manager assured you that an architect was not designing a new building, whereas the finance director reported that we had paid \$80,000 to the architect who is designing the new building.
- The biggest lie was the promise that all options and data would be presented at the public workshop on February 15. Instead, we were bombarded for over an hour on details about why the existing facility needed to be repaired – something no one questioned.
- Then, the presentations got worse... The architect who had a half-million-dollars contract at stake, presented a smoke screen of badly inflated numbers –\$20k private toilets for each "chief" – an elevator over \$300,000.
- Then, to push the renovation estimates higher, he loaded another 37 to 42% of contingencies on top of his estimates.
- Then, he added another 10% of design charges on top of the first 10% design charges for a total of almost \$800,000 design costs for renovation – almost twice the new building design cost.
- The architect tried to sell us a temporary storage building for \$1.2 million.
- And then, staff tried to tell us - all of this will be paid for by new property taxes from projects that have not yet been built.
- Finally, council members, has the staff told you, as they told me, that we owe the architect another \$275,000 on his contract. IF SO, WRONG – 7-days' notice, without cause, zero – nada – termination fees.

COUNCIL MEMBERS, THIS MUST STOP – PLEASE TAKE OUR TOWN BACK

PUBLIC SAFETY BUILDING – RICK MCCLURD, 408 GARROU AVE NE, VALDESE: Mr. McClurd is concerned about the amount of pressure put on the Town Council to vote positive for this project. Mr. McClurd shared handouts of a property tax card of the Waco Community Fire Department. This building does not include the Police Department. Five years ago, after the building was finished, it cost \$1,130,000 with five bays. Mr. McClurd also shared that some other developer is interested in the Pineburr Mill building and asked if Council knew. Mr. McClurd does not have a problem building a new construction but feels we need more time and should push the project out.

PUBLIC SAFETY BUILDING – DAVID WIESE, 3318 MONTANYA VIEW DR., VALDESE: Mr. Wiese shared that the citizens have entrusted Council with their hard earn money and does not need to waste it. Mr. Wiese feels this project is grossly overdesigned. Mr. Wiese feels we should address the safety aspects, evaluate the Fire Department's needs, and be mindful of our citizen's tax dollars.

PUBLIC SAFETY BUILDING – BROOKE HEAVNER, 207 FOREST DR., VALDESE: Mr. Heavner asked Council why the third option to repair the current facility was not presented. Mr. Heavner feels this could

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be an option until we have the money to build a new facility. Mr. Heavner is not against building a new facility but felt that should have been an option presented to the Town public meeting. Mr. Heavner feels there should have been more transparency. Mr. Heavner thinks we should wait until we have the money to build.

PUBLIC SAFETY BUILDING – DEBBIE BRADLEY, 119 MORGAN TRACE DR., VALDESE: Ms. Bradley shared that recruitment and retention are critical to a Police and Fire Department. Ms. Bradley shared that with all the new apartments coming to Valdese, it is essential to have our services in Police and Fire to handle the volume. Ms. Bradley asked Council not to kick the can down the road.

PUBLIC SAFETY BUILDING – SUSAN WILLIAMS, 148 LADY SLIPPER LANE, VALDESE: Ms. Williams shared that the Police drive through her community, and the Fire Department has had to visit their house. Ms. Williams shared that the presentation from Marty Beal was an eye-opener and she could not believe that the current building was in that bad of shape. Ms. Williams is embarrassed that our staff has to work in such horrible conditions. Ms. Williams hopes that Council votes right and is not influenced by misinformation. Ms. Williams asked Council to move forward with a new building as soon as possible.

PUBLIC SAFETY BUILDING – NANCY TUCKER, 210 FOREST DR. NE, VALDESE: Ms. Tucker expressed her concern about the retention and recruitment of the employees. Ms. Tucker feels that a modern workplace will honor our public safety employees. Ms. Tucker feels a new public safety building is the most logical answer.

PUBLIC SAFETY BUILDING – CINDY STEPHENS, 505 PINEBURR AVE, VALDESE: Ms. Stephens has lived in Valdese for 31 years and lives across from where the Public Safety building is planning to go. Ms. Stephens feels that the Town Council thoroughly researched this property. Ms. Stephens feels the new building and location would be an asset to our town. Ms. Stephens supports Town growth and the apartments planned to be developed. Ms. Stephens asked Council to do the right thing and thanked the Council for the job they are doing.

PUBLIC SAFETY BUILDING – JEAN MARIE COLE, 705 BERTIS ST., VALDESE: Ms. Cole shared that this is a perfect Town and has lived here for many years. Ms. Cole feels that the proposed location is not an ideal place but does feel the employees deserve a new facility. Ms. Cole has a concern that the taxes will increase. Ms. Cole wants to make sure the police presence remains downtown.

PUBLIC SAFETY BUILDING – ROY SWEETZ, 1110 TANGLECLIFF ST. SE, VALDESE: Mr. Sweetz shared that being on Council until recently, he knows about all the options. Mr. Sweetz shared that Valdese is allowed up to 30 million dollars in debt by the Local Government Commission and feels we can afford a new Public Safety Building. Mr. Sweetz does not feel waiting to build will help anything, and we should build now. Mr. Sweetz feels repairing the current facility will leave us with a too-small facility and urges Council to vote for a new building.

PUBLIC SAFETY BUILDING – MARY ELLEN WIESE, 3318 MONTANYA VIEW, VALDESE: Ms. Wiese asked Council to ask themselves a question. How is this debt going to impact all of the citizens of Valdese? Ms. Wiese shared that she spent a Saturday in the Pineburr/Ribet area, and not one person had an idea about the new facility going on Pineburr. Ms. Wiese feels that it is foolish to take this amount of debt on at this time.

PUBLIC SAFETY BUILDING – W.T. SORRELL, 102 OAKLAND CT, VALDESE: Mr. Sorrell acknowledged the amount of time the Council has to put into serving the Citizens and thanked each member. Mr. Sorrell was impressed with all the information given at the public meeting. Mr. Sorrell shared that he was surprised that it was not much more in price to build a new building versus repairing the current facility. Mr. Sorrell feels that Council has done its diligence in researching this matter.

PUBLIC SAFETY BUILDING – CARLA BERRY, 204 COLOMBO ST., VALDESE: Ms. Berry lives right off Main Street and shared that in the 11 years she has lived there, she has not been bothered by the sound. Ms. Berry shared that she is thankful when she does hear a siren because she knows the citizens are being helped. Ms. Berry shared that there are now people who will not speak to her, which is not what Valdese is about.

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Mayor Watts thanked Council for what they have endured addressing this project. Mayor Watts shared that we all have one thing in common: we all have Valdese at the end of our address, and we should all still be friends.

CONSENT AGENDA: (enacted by one motion)

APPROVED REGULAR MEETING MINUTES OF FEBRUARY 7, 2022

APPROVED SPECIAL MEETING MINUTES OF FEBRUARY 15, 2022

REAPPOINTMENT TO VALDESE ABC BOARD: John Heilman was reappointed to the Valdese ABC Board for a third, full three-year term which expires April 1, 2025.

APPROVED RENEWAL OF LEASE AGREEMENT AT THE OLD ROCK SCHOOL WITH DR. KYLE BARNES: Lease agreement with Dr. Kyle Barnes for rental space at the Old Rock School, in the amount of \$50.00 per month.

APPROVED REQUEST FROM WALDENSIAN STYLE WINES TO SELL WINE AT ANNUAL EVENTS: Waldensian Style Wines has been authorized to sell wine at the Craft Market event on April 30, 2022, from 9:00 a.m. to 4:00 p.m., Independence Day Celebration on July 1, 2022, from 5:00 p.m. until 11:00 p.m., and the 47th Annual Waldensian Festival events on August 12 & 13, 2022.

APPROVED ORDINANCE DECLARING ROAD CLOSURES FOR THE TOWN OF VALDESE ANNUAL EVENTS:

AN ORDINANCE DECLARING
ROAD CLOSURE FOR TOWN OF
VALDESE SPECIAL EVENTS

WHEREAS, the Town of Valdese desires to schedule an Independence Day Celebration, Annual Waldensian Festival; Treats in the Streets; and the Annual Valdese Christmas Parade; and

WHEREAS, part of US 70/Main Street in Valdese will need to be closed for each of these special events; and

WHEREAS, G.S. 20-169 provides that local authorities shall have power to provide by ordinance for the regulation of the use of highways by processions or assemblages;

NOW, THEREFORE, be it ordained by the Town Council of the Town of Valdese pursuant to G.S. 20-169 that the following portion of the State Highway System be closed during the times set forth below:

2022 Independence Day Celebration (Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St) on July 1, 2022 from 5:00 PM until 11:00 PM.

2022 Waldensian Festival Kickoff Celebration (Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St) on August 12, 2022 from 5:00 PM until 11:00 PM.

2022 Waldensian Festival Celebration (Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St) on August 13, 2022 from 5:30 AM until 11:00 PM.

2022 Valdese Treats in the Streets (Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St) on October 31, 2022 from 3:30 PM until 6:30 PM.

2022 Valdese Christmas Parade (Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St) on December 3, 2022 from 9:30 AM until 12 Noon.

Signs shall be erected giving notice of the limits and times of these street closures as required by G.S. 20-169. THIS, the 7th day of March, 2022.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

Councilman Ogle made a motion to approve the aforementioned items on the Consent Agenda, seconded by Councilwoman Hildebran. The vote was unanimous.

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End Consent Agenda**ITEMS REMOVED FROM CONSENT AGENDA:** None

PUBLIC SAFETY BUILDING: Councilwoman Hildebran made a motion to authorize the architect to develop construction documents for a new facility per USDA guidelines, advertise for the construction bids and for staff to develop alternative bids that will reduce the size and cost of the proposed facility, seconded by Councilwoman Lowman.

Councilman Paul Mears asked staff what the process would be to surplus the Pineburr Mill and Property. Town Manager Seth Eckard shared the process. Councilman Mears visited the Public Safety Building and felt that if he were a prospective employee, he would not take a job working in that facility. Councilman Mears has put a lot of time and effort into studying this project and asked if we did repair the building if there would be a guarantee from the contractor. Architect Marty Beal explained that the standard warranty would be one year from completion however; you can purchase extended warranties.

Finance Director Bo Weichel was asked about the timeline of this project. Mr. Weichel explained once we get a vote from Council, we would go through the USDA process, which could take a year. Mr. Beal shared that it would take three–five months to finish the architect process. Mr. Beal feels that it could take up to 18 months to build a new facility and renovation work could be longer. Councilman Mears asked Mr. Beal if it would be wise to wait three–four months due to inflation. Mr. Beal does not have the answer, but in his experience, it would be difficult to build cheaper than what we are at currently. Councilman Thompson shared that he has had many people reach out to him, and they do not want new construction and do not understand why we need a facility this large. Councilwoman Hildebran explained that her motion stated the Council could look at alternate bids. Councilwoman Hildebran noted that we had told our citizens there would be no tax increase or a reduction in services. Councilman Ogle shared that we have looked at other areas like the Wells Fargo Building, which cost too much. Councilman Mears want the citizens to know that the Council has studied this for months. There was a brief discussion about the possibility of a building a metal building.

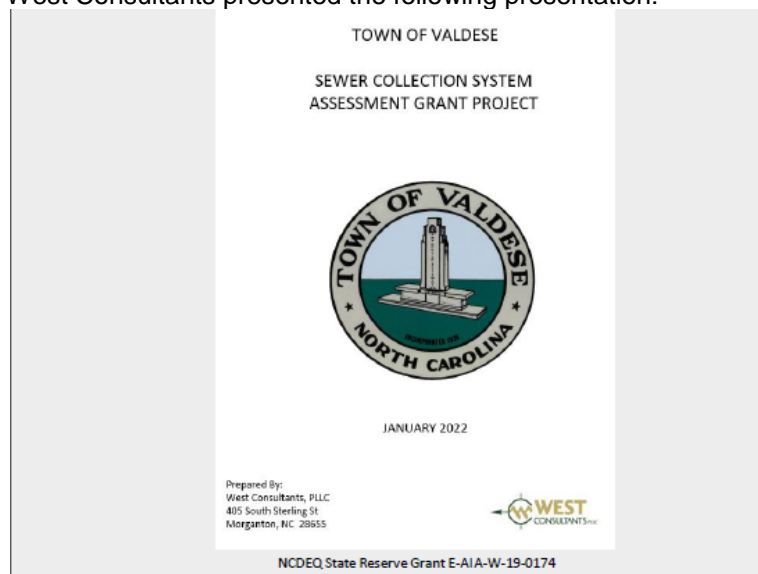
RJ Mozeley with McGill Associates explained to Council how the USDA process works. After a brief discussion, Councilwoman made her motion again.

Councilwoman Hildebran made a motion to authorize the architect to develop construction documents for a new facility per USDA guidelines, advertise for the construction bids and for staff to develop alternative bids that will reduce the size and cost of the proposed facility, seconded by Councilwoman Lowman.

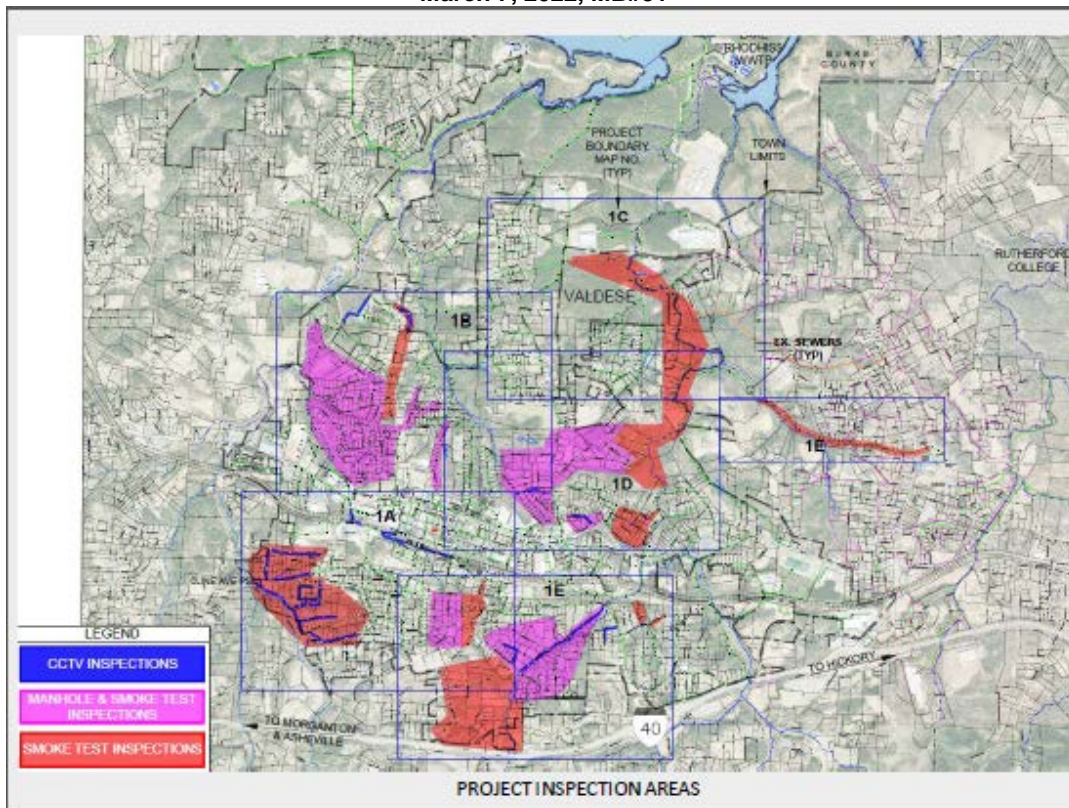
Vote - Councilwoman Hildebran, Councilwoman Lowman, Councilman Mears – Yes(3), Councilman Thompson, Councilman Ogle – No(2)

APPROVED RESOLUTION FOR THE COMPLETION OF THE NCDEQ STATE RESERVE GRANT:

Benjie Thomas with West Consultants presented the following presentation:



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SMOKE TESTING DEFECT EXAMPLES

SEWER TO STORM INDIRECT CONNECTION



JEFFERSON AV

SERVICE LINE DEFECT



HUGHES AV

ROOF DRAIN CONNECTION



DIXIE AV NW

MAIN LINE DEFECT (OVERFLOW LINE)



OUTFALL TO OLD WWTP



UNRESOLVED ISSUE
(POSSIBLE STORM PIPE
CONNECTION)
BLUE RIDGE APTS
PINEBURR AV SE

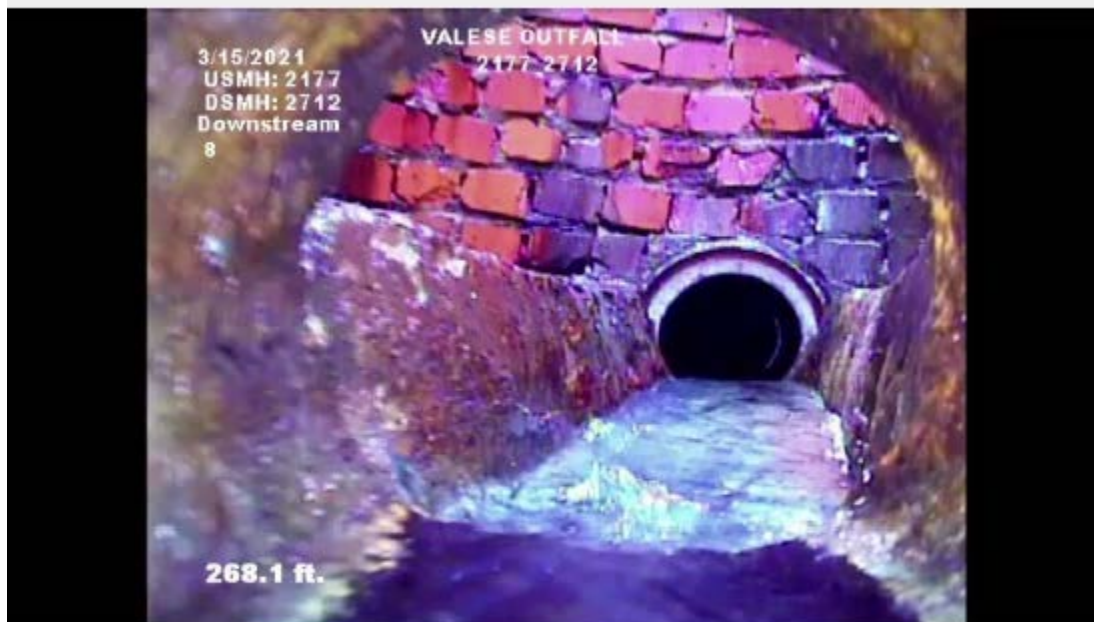
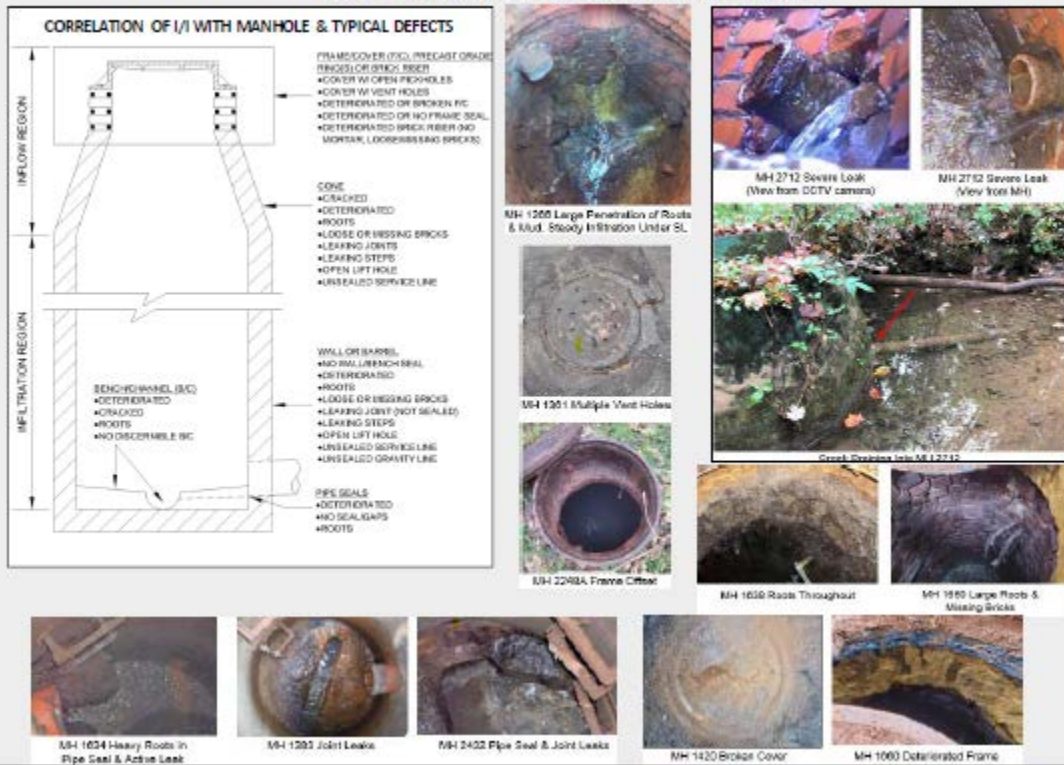
MAIN LINE DEFECT



OFF LOVELADY RD WEST OF KLEENTECH

March 7, 2022, MB#31

MANHOLE INSPECTION DEFECT EXAMPLES



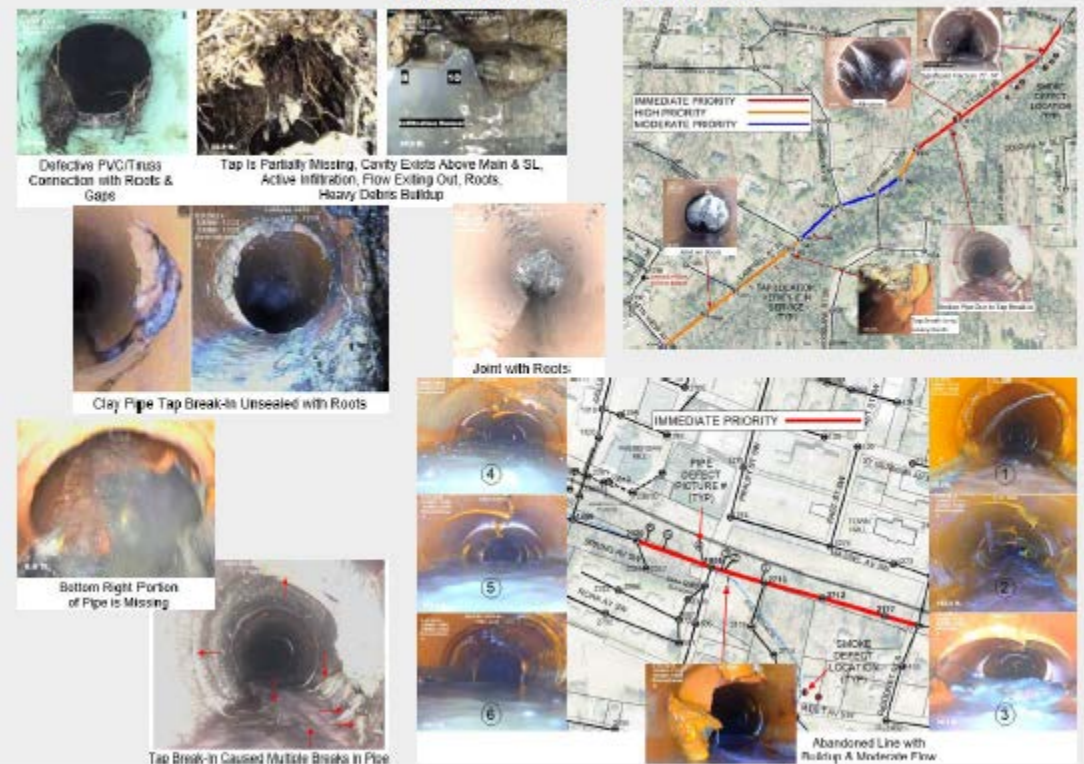
MH 2712 WITH SEVERE LEAK

March 7, 2022, MB#31

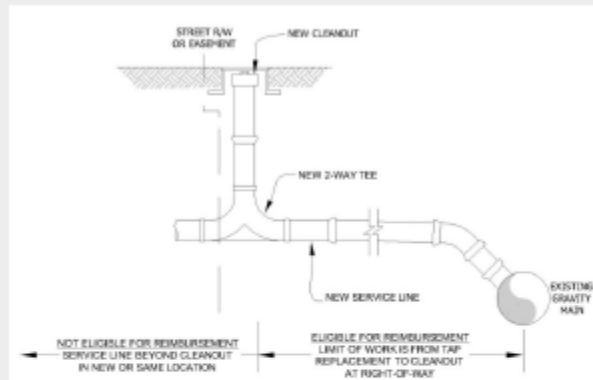


EXAMPLE OF INFLOW (RUNOFF) ENTERING THE COLLECTION SYSTEM BY WAY OF A MH COVER WITH AN OPEN PICKHOLE. WHILE ONLY ONE MH, IT BECOMES AN ISSUE WHEN MULTIPLIED BY HUNDREDS OF MH'S AND EVEN MORE SO W/ MH COVERS THAT HAVE VENT HOLES

GRAVITY PIPE DEFECT EXAMPLES



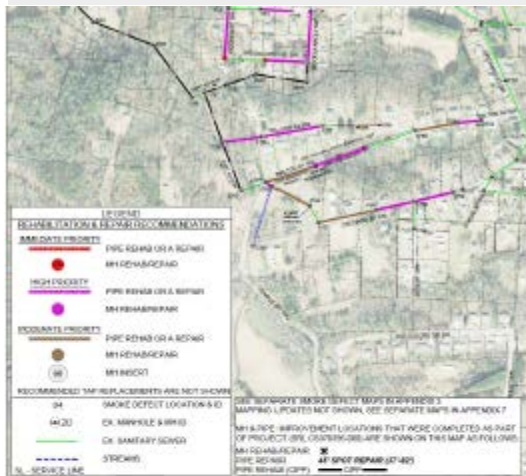
March 7, 2022, MB#31



TWO-WAY CLEANOUT

The estimated cost to complete all the manhole and pipe rehab/repairs tributary to the Cline Avenue PS is \$431,950, as shown in the following table:

CLINE AVE PS BASIN IMPROVEMENTS			
PIPE REHAB/REPAIR TYPE	COST EST.	MH REHAB/REPAIR TYPE	COST EST.
CIPP (6,821 LF)	\$272,852	CEMENTITIOUS LINE (11)	\$23,498
TAP REPLACEMENT (34)	\$102,000	OTHER	\$5,700
OTHER	\$27,900		
TOTAL	\$402,752	TOTAL	\$29,198
			NO. OF MH's 13
TOTAL COST ESTIMATE \$431,950			



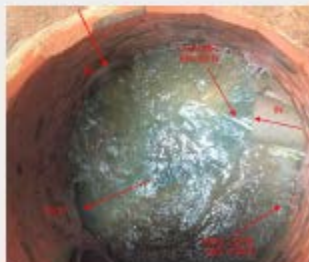
There were 28 manholes and 11 gravity sewers assigned as an immediate rehab/replace priority and 54 manholes and 29 gravity sewers assigned as high priority. The following rehab/repair improvements are recommended to address immediate priority defects:

IMMEDIATE PRIORITY ASSESSMENT			
GRAVITY SEWER REHAB/REPAIR TYPE	QUANTITY	MH REHAB/REPAIR TYPE (28 MH's)	QUANTITY
8" VOP REPLACEMENT (FT)	587	CEMENTITIOUS LINE	26
8" CIPP* (FT)	3,386	REPLACE FRAME/COVER	3
SPOT REPAIR	2	INTERNAL FRAME TO RISER SEAL	2
TAP REPLACEMENT	8	RESECTION GROUND ON SPOUT	4
		REHAB/REPAIR R/C ON PIPE SEAL	10
		PLUG OVERFLOW LINE	3
COST EST. \$273,702		COST EST. \$88,124	
*CIPP - CURED-IN-PLACE PIPE (PIPE RELINING)		R/C - BENCH/CHANNEL	

The estimated costs to complete all immediate, high, and moderate priority work is as follows:

PRIORITY		MANHOLES		REPLACE		CIPP		REHAB/REPLACE TAP		TOTAL	
ASSESSMENT	COUNT	COST EST.	LEN (LF)	COST EST.	LEN (LF)	COST EST.	COUNT	COST EST.	COST EST.		
IMMEDIATE	28	\$58,124	587	\$151,250	2,386	\$98,492	8	\$11,000	\$260,574		
HIGH	54	\$105,240			5,362	\$104,452	46	\$196,000	\$905,692		
MODERATE	74	\$70,753			2,109	\$68,124	27	\$46,900	\$225,077		
		\$234,117		\$151,250		\$435,335		\$233,900	\$1,064,661		
										MH INSERTS	\$25,175
										SMOKE TEST DEFECTS	\$36,200
											\$1,093,506

The estimated cost including 30% for contingency, engineering, and construction administration/observation is \$1,366,958. Rehab/repair recommendation maps are contained in Appendix 5 and a copy of the report in pdf format is on the USB in Appendix 1.



MANHOLES WITH ACTIVE LEAKS



Mr. Thomas shared that this grant aims to help the Town to have a better understanding of their sewer system. Mr. Thomas shared that they looked at many manholes and put cameras through the pipes. Mr. Thomas identified some of the issues that the Town will need to address. Public Services Director Greg Padgett shared that some of the needs can be completed in-house, and some are too extensive and will need to be contracted out.

March 7, 2022, MB#31

RESOLUTION BY THE TOWN OF VALDESE: COMPLETION OF THE NCDEQ STATE RESERVE
GRANT E-AIA-W-19-0174 SEWER COLLECTION SYSTEM ASSESSMENT PROJECT

WHEREAS, the North Carolina General Statutes Chapter 159G has created Asset Inventory and Assessment grants to assist eligible units of government with meeting their water infrastructure needs, and

WHEREAS, the North Carolina Department of Environmental Quality provided a State Reserve Grant in the amount of \$150,000 to perform asset inventory and assessment work, and

WHEREAS, the Town of Valdese committed to implementing said project in accordance with the agreed scope of work.

NOW, THEREFORE BE IT RESOLVED, BY THE TOWN OF VALDESE:

That the Town of Valdese has completed the project in accordance with the conditions of the grant, and that a presentation and final report were received at the Valdese Town Council meeting of March 7, 2022.

Adopted this the 7th day of March 2022 at Valdese, North Carolina.

/s/ Charles Watts, Mayor

ATTEST:

/s/ Town Clerk

Councilman Ogle made a motion to approve the aforementioned resolution, seconded by Councilwoman Lowman. The vote was unanimous.

ARBOR DAY PROCLAMATION: Mayor Watts presented the following proclamation:

ARBOR DAY 2022 PROCLAMATION

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, 2022 is the 150th Anniversary of the holiday and Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut our heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal; and

WHEREAS, the Town of Valdese has received the prestigious Tree City USA award for the past 34 years.

NOW, THEREFORE, I, Charles Watts, Mayor of the Town of Valdese, North Carolina, do hereby proclaim Friday, March 18, 2022, as the 150th Anniversary celebration of; and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

This 7th day of March, 2022.

/s/ Charles Watts, Mayor

March 7, 2022, MB#31

OFFER TO PURCHASE TOWN-OWNED PROPERTY – JANAVEL AVE. SW: Planning Director Larry Johnson shared that he received a request from Mr. Ned Fowler with the Valdese Mill Multi-family Housing Project to purchase 0.259 acres for \$25,000.00 for additional parking. Mr. Johnson presented the following Resolution:

RESOLUTION AUTHORIZING UPSET BID PROCESS
(Sale of 0.259 Acres of 204 Janavel Avenue SW, Valdese, NC)

WHEREAS, the Town of Valdese owns certain property located at 204 Janavel Avenue SW, Valdese, NC, which is described as follows:

Beginning at a point said point being located in the northern right of way margin of Janavel Avenue SW said point being the southeast corner with Blue Ridge Housing of Burke, LLC Deed Book 2578, Page 145, Burke County Registry; and running thence with the line of Blue Ridge Housing of Burke, LLC North 14° 05' 13" East 134 feet to a point in the southern line of Foothills Service Project Deed Book 1811, Page 783, Burke County Registry; and running thence with the line of Foothills Service Project South 72° 55' 00" East 85.60 feet to a point; continuing thence a new line South 14° 10' 00" West 131.65 feet to a point in the northern line of Janavel Avenue; and running thence with the line of Janavel Avenue right of way North 73° 13' 59" West 85.40 feet to the point in place of beginning and being a total 0.259 acres and being according to a survey prepared by West Consultants, PLLC, titled Property Of: Town of Valdese, and being a portion of PIN: 2733950313 and Deed Book 592 Page 904, Burke County Registry.

DEED REF: Book 592, Page 904, Burke County Public Registry
REID NO.: 38646
PIN NO.: 2733950313

WHEREAS, North Carolina General Statute §160A-269 permits the town to sell property by upset bid, after receipt of an offer for the property;

WHEREAS, the town has received an offer to purchase the property described above, in the amount of \$25,000.00, submitted by Ned Fowler; and

WHEREAS, Ned Fowler has paid the required five percent (5%) deposit of his offer.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF VALDESE RESOLVES THAT:

1. The town council authorizes sale of the property described above through the upset bid procedure of North Carolina General Statute §160A-269.
2. The town clerk shall cause a notice of the proposed sale to be published. The notice shall describe the property and the amount of the offer and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the town clerk within ten (10) days after the notice of sale is published. At the conclusion of the 10-day period, the town clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the town clerk shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the town council.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

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6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid. The deposit may be made by cashier's check or by certified check. The town will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The town will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that:
 - (a) the town council must approve the final high offer before the sale is closed, which it will do within thirty (30) days after the final upset bid period has passed;
 - (b) the buyer must pay the purchase price in certified funds at the time of closing;
 - (c) the property shall be sold "as is" and subject to all existing easements;
 - (d) the town will reserve easements for all town utility lines located on or under the property; and
 - (e) the property shall be conveyed by special warranty deed.
8. The town reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject all bids at any time.

THIS RESOLUTION IS ADOPTED MARCH 7th, 2022.

THE TOWN OF VALDESE,
a North Carolina Municipal Corporation

/s/ Charles Watts, Mayor

ATTEST:
/s/ Town Clerk

Councilman Ogle made a motion to approve the aforementioned resolution, seconded by Councilman Thompson. The vote was unanimous.

APPROVED BUDGET AMENDMENT: Finance Director Bo Weichel presented the following Budget Amendment and modified the amount. In addition, Mr. Weichel received another donation for \$1,000.00, making the total budget amendment \$3,500.00.

March 7, 2022, MB#31

Valdese Town Council Meeting

Monday, March 7, 2022

Budget Amendment #

11

Subject: Donation for Stage project

Description: To accept a private donation to the stage project behind Old Rock School

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3350.000	Donations		2,500
Total		\$0	\$2,500

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.6250.740	Capital Outlay	2,500	
Total		\$2,500	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Councilman Ogle made a motion to approve the modified budget amendment in the amount of \$3,500.00, seconded by Councilwoman Hildebran. The vote was unanimous.

APPROVED CAPITAL PROJECT ORDINANCE AMENDMENT: Finance Director Bo Weichel presented the following Capital Project Ordinance Amendment:

March 7, 2022, MB#31

Valdese Town Council Meeting

Monday, March 7, 2022

Capital Project Ordinance Amendment # 9-35

Subject: Public Safety building

Description: To amend capital project ordinance Fund 35
Accept and receive the State Grant monies allocated to the public safety facility project.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the capital project ordinance for various capital projects funded from a variety of sources is hereby amended as follows.

Section I:

Revenues available to the Town to complete the projects are hereby amended as follows:

Account	Description	Decrease/ Debit	Increase/ Credit
35.3480.002	State Grant		500,000
Total		\$0	\$500,000

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
35.5300.900	Construction	500,000	
Total		\$500,000	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Councilman Ogle made a motion to approve the aforementioned Capital Project Ordinance Amendment, seconded by Councilman Thompson. The vote was unanimous.

MANAGER'S REPORT: Town Manager Seth Eckard made the following announcements:

Coffee with the Chief, Thursday, March 17, 2022, 9:00 a.m. at Old World Baking Company

The Lucky Leprechaun Hunt begins Thursday, March 17, 2022. Participants will search for Leprechauns hidden around Valdese. Prizes can only be redeemed during the Old Rock School hours, 8:00 am – 5:00 pm.

Concerts at the Rock presents: Malpass Brothers, Saturday, March 19, 2022, at 7:30 p.m.

Annual Budget Retreat is scheduled for March 23 & 24, 2022, 9:00 a.m. – 5:00 p.m. at the Old Rock School, Waldensian Room.

Concerts at the Rock presents: Lonesome River Band, Saturday, April 2, 2022, at 7:30 p.m.

MAYOR AND COUNCIL COMMENTS: Councilman Ogle expressed concern with the rise in gas prices and the take-home vehicles driving farther than three miles out of Town. Town Manager Seth Eckard said he would look at some analysis on what we spend currently. Mr. Eckard shared that staff is considering that with the next budget year.

March 7, 2022, MB#31

Councilman Mears asked when we were going to fix the Tiger Gym. Councilman Mears feels like it needs to be opened. Parks and Recreation Director David Andersen shared that he has been in contact with several contractors, and no one yet has a confirmed plan on how to correct the issue. Mr. Andersen is still working on finding the solution. Mr. Andersen shared there is a wet residue on the floor, and it looks to be an environmental issue. Mr. Andersen also gave an update on how the fundraiser was going with the gym renovations at the Community Center. Councilman Mears is concerned with building a new Public Safety Building but still having gyms that need to be repaired or updated.

Councilwoman Hildebran complemented Officer Hicks on the great job he is doing as Code Enforcement/Animal Control Officer.

Mayor Watts thanked the Council for everything they have done thus far on the plans for the Public Safety Building.

Councilwoman Lowman thanked the Police and the Fire Department for everything they do for the Town.

ADJOURNMENT: At 8:07 p.m., there being no further business to come before Council, Councilwoman Hildebran made a motion to adjourn, seconded by Councilman Thompson. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, April 4, 2022, 6:00 p.m., Valdese Town Hall.

Town Clerk

Mayor

jl

TOWN OF VALDESE
ANNUAL COUNCIL/DEPARTMENT HEAD BUDGET RETREAT
WEDNESDAY, MARCH 23, 2022 & THURSDAY, MARCH 24, 2022

The Valdese Town Council met on Wednesday, March 23, 2022 and Thursday, March 24, 2022, 9:00 a.m., for the Annual Budget Retreat, Old Rock School, Waldensian Room, 400 Main Street West, Valdese, North Carolina. The following members were present: Mayor Charles Watts, Councilwoman Frances Hildebran, Councilman Keith Ogle, Councilwoman Rexanna Lowman, Councilman J. Andrew Thompson, and Councilman Paul Mears. Also present: Town Manager Seth Eckard, Town Clerk Jessica Lail, and all Department Heads.

Absent: None

A quorum was present; however, no action was taken.

DAY 1 – MARCH 23, 2022

CALL TO ORDER At 9:00 a.m., Mayor Watts opened the meeting with an invocation and led in the Pledge of Allegiance to the Flag. Mayor Watts welcomed everyone and thanked the Department Heads for all the hard work they had completed on the Budget Retreat. Mayor Watts shared that we have a high level of service for our citizens, thanks to the Council, Department Heads, and employees. Mayor Watts encouraged everyone to continue their forward-thinking.

FINANCE DEPARTMENT Finance Director Bo Weichel provided an overview of the Town's fund balance, major revenues and projections, debt services, and budget challenges. Mr. Weichel shared that the total fund balance for last year was \$5,286,477. The unassigned fund balance was in the amount of \$4,299,677, with a 93% fund balance percentage. Mr. Weichel shared this was an increase of \$775,240 or 20% of expenditures. Mr. Weichel shared that it jumped up because we shut down some of the facilities due to the COVID pandemic. Mr. Weichel shared that we have a healthy fund balance. Mr. Weichel shared that on the Water & Sewer side, the unrestricted balance was \$1,678,904 with 32% of expenditures. The general fund's operating debt ratio is 4.15%, and the debt is 7.49% in the Utility Fund. Mr. Weichel identified challenges for the upcoming year, with one being the increase of the Town portion of retirement moving from 11.43% to 12.16%, which is state-mandated. Mr. Weichel shared that we are unsure of the health insurance rates yet but should have those numbers soon.

<p>TOWN OF VALDESE</p> <p>2022-2023</p> <p>BUDGET OVERVIEW</p>	<ul style="list-style-type: none"> • FUND BALANCE • MAJOR REVENUES AND PROJECTIONS • DEBT SERVICE • BUDGET CHALLENGES
<p>FUND BALANCE</p>	<p>PURPOSE OF FUND BALANCE</p> <ul style="list-style-type: none"> • PREVENT SHORT-TERM BORROWING • RESERVE FOR EMERGENCIES, UNFORESEEN EVENTS, OR UNEXPECTED OPPORTUNITIES • INCREASE AVAILABLE FUNDS FOR INVESTMENT • AVOIDS LGC ATTENTION (WARNING WHEN FB IS LESS THAN 50% OF AVERAGE FOR SIMILAR SIZED NC UNITS)

GENERAL FUND

WHERE DID WE END LAST YEAR ON JUNE 30TH?

- TOTAL FUND BALANCE WAS \$ 5,286,477
- UNASSIGNED FUND BALANCE WAS \$ 4,299,677
- FUND BALANCE PERCENTAGE 93% OF EXPENDITURES
- INCREASE FROM PRIOR YEAR OF \$ 775,240 OR 20% OF EXPENDITURES

WHAT WILL IMPACT FUND BALANCE SO FAR THIS YEAR?

- USDA ANNUAL RESERVE INCREASE OF \$8,224 TO \$145,683 (COMMITTED)
- FUND BALANCE APPROPRIATIONS \$122,000

IA BUILDING DEMO | MED. INS PREMIUM ADJUSTMENT | CHARGER NEW ENGINE
REC LOCKER ROOM HVAC | FOUNDATION FORWARD SIDEWALK | TOWN HALL ROCK

WATER & SEWER FUND

WHERE DID WE END LAST YEAR ON JUNE 30TH?

- UNRESTRICTED WAS \$ 1,678,904
- FUND BALANCE PERCENTAGE 32% OF EXPENDITURES
- INCREASE FROM PRIOR YEAR \$ 413,111 OR 8%

WHAT WILL IMPACT FUND BALANCE SO FAR THIS YEAR?

- CAPITAL ITEMS/PROJECTS APPROVED IN CIP MODEL (FEE/MATCHES) \$ 16,987
- FUND BALANCE APPROPRIATIONS \$ 69,723 IA BUILDING DEMO | MED. INS ADJUSTMENT
- SALE OF ASSETS \$ 7,275 TRAILER | RALPH PATTON RD

REVENUES

TOWN OF VALDESE Major Revenue Sources (General Fund)					
	Current Budget	Actuals (67% of Year)	% Collected	FY 22-23 Projection	Projected Increase (Decrease)
Current Ad Valorem Tax	2,040,795	2,000,336	98.0%	2,045,340	0.2%
Motor Vehicle Tax	180,000	138,854	77.1%	192,000	6.7%
Utility Franchise Tax	457,000	219,815	48.1%	457,000	0.0%
Powell Bill	144,500	162,972	112.8%	146,300	1.2%
Sales & Use Tax	1,282,942	1,042,893	81.3%	1,465,039	14.2%
Refuse Collection Fee	202,000	139,076	68.8%	202,000	0.0%
Recycle Fee	44,200	30,364	68.7%	44,200	0.0%
Recreation Memberships	144,000	92,169	64.0%	144,000	0.0%

DEBT

TOWN OF VALDESE General Fund Debt			
	Annual Payment	Balance Remaining	Years Remaining
Fire Engine (USDA)	26,908	53,816	2
Fire Ladder Truck (USDA)	52,761	844,176	16
Trucks & Equip-Street (Trust)	53,743	214,972	4
Town Hall (USDA)	88,878	2,577,462	29
Splash Park (USDA)	19,483	701,388	36
Patrol Vehicles (Trust)	18,471	55,410	3
Total	260,244	4,447,224	
Operating Debt Ratio	4.15%		

TOWN OF VALDESE Utility Fund Debt			
	Annual Payment	Balance Remaining	Years Remaining
Inflow & Infiltration (SRF)	14,779	185,885	14
Settlings - Water & Sewer (USDA)	67,115	1,726,415	26
St Germaine Water Line (SRF)	8,626	146,634	17
Water Meter AMI (SRF)	88,112	1,586,013	19
2018 Water System Improvements (SRF)	23,327	419,893	18
Main St. Waterline Replacement (SRF)	70,703	1,343,365	19
Bleach Conversion-Water Plant (SRF)	35,920	682,478	19
2022 Vehicles/Equipment (Trust)	14,610	58,438	4
Water Plant Upgrades MCC (SRF)	41,961	839,216	20
TOTAL	365,153	4,064,840	
Debt Ratio	7.49%		

BUDGET CHALLENGES

2022 BUDGET CHALLENGES FOR VALDESE:

- STATE MANDATED 0.75% INCREASE TOWN PORTION OF RETIREMENT (WILL BE 12.16%)
- HEALTH INSURANCE?
- STANDARD PRICE INCREASES / CONSUMER PRICE INDEX INCREASES FROM VARIOUS VENDORS SUCH AS TRASH/RECYCLING, SOFTWARE/IT, SERVICES, & MATERIALS.

POLICE DEPARTMENT Police Chief Jack Moss shared the Police Department accomplishments for FY 21-22 and identified objectives for FY 22-23. Chief Moss feels that the new Code Enforcement/Animal Control Officer has been a success and is cleaning up the Town. Chief Moss shared that the Police Department responded to 2,284 calls last year and expect this year to be more due to the pandemic lifting. Chief Moss shared that it is harder to find employees, and Officers are making more money in the private sector.

Valdese Police Department

Budget 2022-2023

Budget Accomplishments 21-22:

- New RMS(Records Management System) will be up and running July 1, 2022.
- Upgraded 2 desktops and 5 patrol unit computers.
- Code Enforcement and Animal Control position is successful in eliminating most problem areas.
- We have upgraded our Records Management System security.
- We are replacing the viper radios this budget year.
- The department initiated "Boots on the Ground" to develop better community relations for our new officers and reinforce our senior officers involvement in the community.
- "Coffee with the Chief" has been a success. Several citizens, from the community, attend every meeting.

Accomplishments Continued:

- The department is at full staff and has been working extremely hard to rid our community drugs and crime.
- Our officers responded to 2284 calls for service (2449 for 2020-2021) and initiated 16,703 CAD reported incidents (10,036 for 2020-2021). Traffic accidents as reported from February 15, 2021 to March 07, 2022 were 138. The same time period the previous year, we had 107 traffic accidents reported. Officers issued 38 written warnings (22 last year) and gave 347 verbal warnings (354 last year). They made 362 arrests (176 last year) and issued 549 traffic citations (305 last year).
- This budget year has seen many challenges for our department. Our personnel have taken on more responsibilities and met these challenges head on and will continue to improve the safety of our community.

Budget needs 2022-2023:

- We need to replace one patrol unit this budget year.
- We will move the oldest unit to our reserve fleet to be used during inclement weather and for reserve special assignments.
- We need to purchase a Taser for our Code Enforcement Officer and Reserve Officers.
- We will need to replace 4 Desktop computers and 1 Mobile Laptop to stay on the town upgrade schedule.

Budget needs continued:

- Proactive code enforcement continues to provide a clean city and with proactive animal control enforcement monies need to be added to budget for veterinarian charges.
- We need to continue offering competitive salaries for our area.

Conclusion:

- Our department will continue to stress the benefits of training, to better equip today's officers in facing new challenges that we encounter.
- We will continue to aggressively pursue criminals that commit crimes in our city and follow through with their criminal prosecutions. We will emphasize public awareness and public education to complement the enforcement of motor vehicle laws to make the streets of Valdese safer.
- I will continue to meet with the merchants and community organizations to hear their concerns and keep them informed as to how we may be of service and provide them with information to help protect themselves and their property.
- Our objective is to be a department of more community related officers and make Valdese a safe place to raise a family and operate a business where law enforcement is seen as part of, and respected by, the community.
- Our desires are that the Town will respect its law enforcement officers, as the officers will respect and honor all citizens, by protecting and serving them as we uphold our oaths of office.

PLANNING DEPARTMENT Planning Director Larry Johnson provided an overview of zoning permits, housing development updates, items the Planning Board is currently working on, and budget requests. Mr. Johnson shared that the Planning Department and Planning Board has a big project coming working on re-zoning the Downtown Business Corridor.

VALDESE PLANNING DEPARTMENT

OVERVIEW

- Year 2021 Zoning Permits Overview
- Housing Development Updates
- Planning Board Agenda 2022
- Department Request

ZONING PERMITS SUMMARY CALENDAR YEAR 2021 TO DATE

Zoning Permits issued in 2021

75

Permits Value

\$21,318,385.00

March 23 & 24, 2022, MB#31

□ New Construction Site-Built

(13) \$5,503,874.00

□ Residential Addition

(5) \$299,800.00

□ Residential Renovation

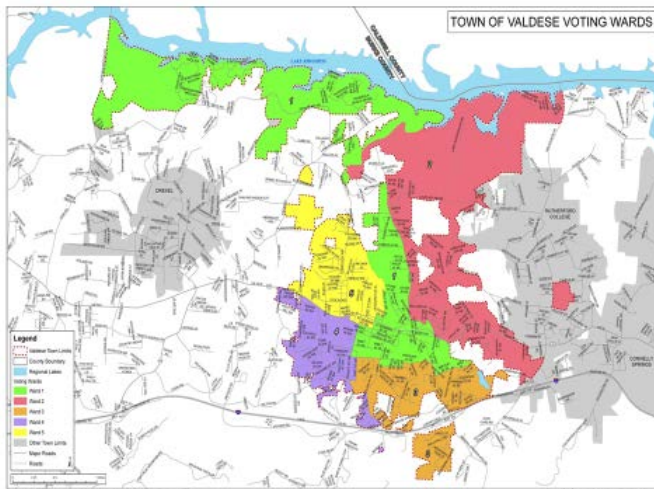
(7) \$352,772.00

Zoning Permits issued in 2022

13

Permits Value

\$983,000.00



WARD BREAKDOWN

• Ward 1 (Thompson)	
18 Permits	\$6,949,425.00
• Ward 2 (Mears)	
23 Permits	\$2,417,941.00
• Ward 3 (Lowman)	
6 Permits	\$ 463,092.00
• Ward 4 (Hildebran)	
16 Permits	\$11,239,932.00
• Ward 5 (Ogle)	
10 Permits	\$ 226,995.00

HOUSING DEVELOPMENT UPDATES

LAKE FRONT SUBDIVISIONS

- Lake Rhodhiss Estates
- Lake Vistas Phase I and 2
- Waterside
- McGalliard Pointe
- Island Pointe Shores (Phase 3)

LAKE RHODHISS ESTATES FORMERLY THE SETTINGS



Lake Rhodhiss Estates
(The Settings)
2008

210 Lots

6 Houses Occupied or under construction

LAKE VISTAS PHASE I & 2



Lake Vistas Phase I & II
2012

72 Lots

8 Homes Occupied or under construction

WATERSIDE



Waterside
2013

124 Lots

18 Houses Occupied or under construction

MCGALLIARD POINTE



**McGalliard Pointe
2015**

5 Lots
4 Houses occupied or under construction

ISLAND POINTE SHORES



**Island Pointe Shores at Lake Vistas
2018**

48 Lots
6 Houses Occupied or under Construction

WATERFRONT SUBDIVISION TOTALS

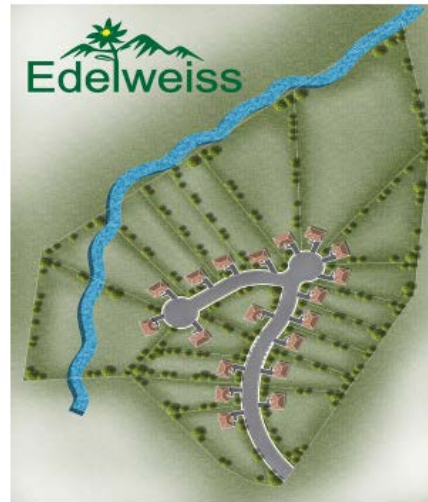
459 Subdivision Lots

42 Houses Occupied or Under Construction

HOUSING DEVELOPMENTS

EDELWEISS

- Edelweiss Subdivision (19 Lots) In final construction phase; Beginning construction of two model homes by June 2022. Expected home prices in \$250,000.00 range depending upon lot and house square footage.



VALDESE BLUFF

- Valdese Bluff (Planning Stage) Planned Unit Development that will include office/institutional opportunities, single family housing, apartments, and a marina. Town received grant (\$800,000) for extension of sewer to the site.
- First phase will consist of a 44 lot subdivision



RENTAL HOUSING PROJECTS

- Pine Crossing (66 Unit Affordable-work force) Housing Plan Unit Development); Construction slated for 2022. 9.8 million dollar project
- Tron Place (60 unit apartments for rent to Elderly 55 years and older); Total investment of 8.5 million dollars; Site Development slated for Fall 2022
- Historic Valdese Weavers Mill - 12 Million dollar 60 unit apartment (work force housing with no age restrictions); Rent ranges \$600 and \$850 for 1br & 2br. Construction schedule for Fall 2022.

PLANNING BOARD 2022 AGENDA

Commercial Districts Expansion

- Rewrite of permitted uses and standards in the B-1 Central Business and B-2 General Business commercial zoning districts
- Create new district, DBC-Downtown Business Corridor
- Expand the B-1 Central Business, and
- Expand the B-2 General Business District

Planning priority in The Valdese Vision: Land Use Action Plan

REZONING BOUNDARY



DOWNTOWN BUSINESS CORRIDOR





PLANNING DEPARTMENT 2022-2023 BUDGET

UPDATE ZONING ORDINANCE AND SUBDIVISION REGULATIONS

- Create opportunities to improve the readability and usability of the ordinances.
- Create a Unified Development Ordinance (single more usable document) that would bring together the zoning and subdivision standards
- integrate the various definitions from the two documents, harmonize potentially conflicting language and requirements, and
- move key standards into easy-to-read tables

COST/FUNDING

- Staff has requested \$15,000.00 to fund this project.
- Town Manager has agreed to support project with fiscal year 2021-2022 or 2022-2023 General Fund appropriations

WARD REDISTRICTING

2020 Census Population 4,689

2010 Census Population 4,490

- Ward Boundaries adjusted due to 2020 Census
- By State Statute all Wards in the must be within plus or minus 5% of the Town's Census 2020 population
- If the 2020 census shows that the existing districts already are within this plus or minus five percent overall deviation range, there is no need to redistrict".

County or Municipality	Population 2010 Census	Housing Units 2010 Census	Population 2020 Census	Housing Units 2020 Census	Population Change 2010- 2020
Alexander County	27,198	16,189	36,444	35,960	754
Burke County	30,912	20,479	37,520	39,625	3,447
Calhoun County	31,028	17,438	36,452	36,911	2,472
Catawba County	134,324	67,886	160,610	70,744	6,252
Hickory/Lenoir/Morganton BSA	965,497	529,413	985,729	529,140	222
Brookford town	392	214	441	218	60
Cajah's Mountain town	2,822	1,217	3,722	1,390	1,011
Catawba town	691	324	701	307	10
Cedar Rock village	300	137	301	134	1
Clatsworth city	3,263	1,444	3,420	1,724	157
Community Springs town	1,604	733	3,329	1,832	1,440
Conover city	3,105	1,424	3,421	1,407	316
Drexel town	1,644	633	1,763	811	119
Garnerfield town	4,051	1,786	3,702	1,681	-349
Green Ridge town	1,312	608	1,420	672	108
Granite Falls town	4,722	2,077	4,965	2,105	243
Hickory city	40,016	26,129	43,490	26,064	3,474
Hickory town	2,023	888	3,479	1,771	1,456
Hudson town	3,774	1,494	3,785	1,717	1
Lenoir city	18,228	8,568	18,151	8,901	-77
Long View town	4,873	2,135	5,088	2,453	215
Madison town	3,316	1,383	3,744	1,491	428
Morganton city	16,918	7,418	17,474	7,650	556
Newtown city	12,964	5,495	13,140	5,776	186
Shoals town	2,026	868	2,071	927	45
Southford College town	1,351	614	1,274	582	-77
Summit town	3,244	1,387	3,021	1,478	-223
Taylorsville town	2,094	1,026	2,301	1,110	207
Valdese town	4,400	1,927	4,689	2,135	199

COST/FUNDING

- Identified in 2022-2023 Department Budget
- Estimated contract cost \$1,500.00.

THE VALDESE VISION: A LAND USE PLAN FOR THE FUTURE

- Land-Use Plan adopted by Valdese Town Council, January 2014
- However, general guidance from the UNC School of Government suggests that planning best practice is to update a community plan at least every five years in fast-growing communities, and every ten years or so in slower-growth or no growth communities.
- Town of Valdese grew by about 199 or so between 2010 and 2020, or about 4 percent, which might be considered as moderate.

COST/FUNDING

- Staff has requested \$65,000.00 to fund this project.
- Planning Department requesting that the project will be placed in General Fund CIP for implementation FY 2024-2025 Budget Year.

FIRE DEPARTMENT Fire Chief Greg Stafford shared departmental accomplishments. Chief Stafford also provided an overview of calls and activities throughout FY 21-22 at the Fire Department. Chief Stafford discussed the upcoming purchase of Viper Radios and explained how the radios are one of the most important pieces of equipment they carry. In addition, Chief Stafford informed Council of all the existing programs the Fire Department is involved in.



2022-2023 Fire Department Operational Budget



2021-2022 Accomplishments

- Rescue Cutter: \$7,500



- Rescue Spreader: \$8,500



- Rescue Ram: \$6,200



Rescue



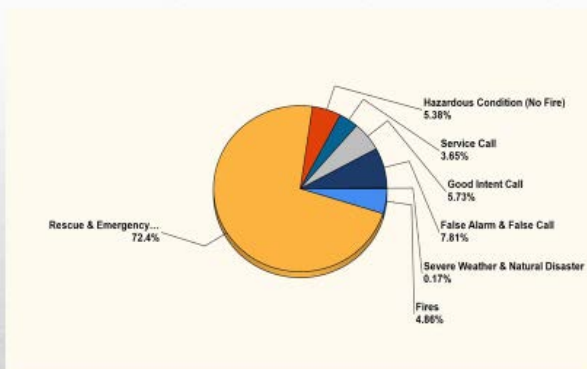
Thermal Imaging Camera: \$5,000



Junior Firefighter Program

- Total training hours: 3,082
- Fire Inspections: 211 Violations: 810
- Maintenance of all fire hydrants in the service district
- Total Fire Department Responses: 576
 - Fire – 173
 - Medical - 386
 - Fire and Medical – 17
- Completed Insurance Rating Inspection

Miscellaneous Accomplishments



- 14 requests to check detectors
- 24 detectors checked. 17 non-functional (71%)
- 25 new detectors installed



Smoke Detector Program

- 14 requests to check detectors
- 24 detectors checked. 17 non-functional (71%)
- 25 new detectors installed



Smoke Detector Program

- Registered Permanent Checking Station
- 36 child restraints checked at VFD in 2021
- Part of Safe Kids Burke County Coalition
- Assisted with 2 seat check events.
- 80 total hours



Safe Kids Program



2022-2023 Objectives

- Previously in 2023-2024 CIP
- \$175,000
- Critical part of personal protective equipment
- Current radios are legacy models and are not factory supported
- Current radios are approaching 10 years old
- Must meet new VIPER system requirements



VIPER PORTABLE RADIOS

- Implementation of policies and guidelines to help prevent cancer
 - Increased risk of numerous types of cancer in firefighters
 - NC Firefighter Cancer Benefit Pilot Program
 - Will be purchasing additional PPE and supplies
- Currently exploring CPR/First Aid classes for the general public

Miscellaneous Objectives



Mingle with
Kris Kringle
Presented by Valdese Fire Department

EXISTING PROGRAMS

Assisting with DHS Fire Academy Program
 Junior Firefighter Program
 Maintenance of fire hydrants
 Safe Kids Program
 Smoke Detector Program
 Emergency Management/Hazard Mitigation
 Burke Co. Homeland Security Task Force
 Town of Valdese Workplace Safety Program

PARKS & RECREATION Parks and Recreation Director David Andersen shared with Council that the COVID pandemic hit the Recreation Department hard, and they are working on returning to normal. Mr. Andersen gave an overview of the services available and a few events that the Recreation Center is bringing back. Mr. Andersen reviewed some successes this year, from the swim team to Lakeside Park additions. In addition, Mr. Andersen shared budget highlights and CIP projects for FY 22-23, including improvements to the Community Center locker room and purchasing a new lawnmower.

Town of Valdese Parks and Recreation

Budget Retreat March 23, 2022



Returning to "Normal"



Returning to "Normal"

- + Fitness Programming Increasing in Attendance
 - + SilverSneakers every weekday
 - + Aquacise classes 4 days a week
 - + Line Dancing three days a week
- + Swim Lessons
- + Birthday Parties and Facility Rentals
- + Bowling Leagues



Big Events Making A COVID Comeback

- + April 11-15:
 - + 2nd Grade Water Safety Program with Valdese Elementary
- + May 14:
 - + Granville Morrow Fun Fish Day
- + September 9:
 - + Dive-In Movie Night



Excellence at Any Age



VALDESE
Parks & Recreation

Valdese Lakeside Park



VALDESE
Parks & Recreation

Moving Forward and Improving



VALDESE
Parks & Recreation

Departmental Challenges

- +Part-Time Staffing
 - +Concessions Staff
 - +Lifeguard Staff
- +Infrastructure
 - +Aging Facilities
 - +Aging Equipment

VALDESE
Parks & Recreation

Expanding Revenue

- +Suggest Modest Increases in the following areas:
 - + Facility Rentals
 - + Swim Lessons
 - + Aquatics/Fitness Memberships
- +Offer New Programming
 - + Youth Volleyball
 - + Recreational Therapy Programming

VALDESE
Parks & Recreation

Looking Forward

- +Gymnasium/Locker Room Renovation
 - + Gymnasium, Lobby, and Restrooms
 - + Locker Rooms and Pool/Fitness Lobby
- +Pool Boiler Replacement

VALDESE
Parks & Recreation

COMMUNITY AFFAIRS Community Affairs Director Morrissa Angi shared the annual statistics, showing an increase since 2019. Ms. Angi informed Council of the many projects and renovations that Community Affairs completed this year. Ms. Angi updated Council on Community Affairs CIP. Ms. Angi shared new ideas on improving downtown, including a front lawn at the Old Rock School for future events, an outdoor patio seating area, and new welcome to Valdese signs. Ms. Angi said these were just ideas for the future. Councilwoman Hildebran suggested buying new flags on the light poles with more color. The Town Council discussed improving the Town's Christmas lights that added more color.

Community Affairs

ANNUAL BUDGET RETREAT 2022

Annual Statistics

Community Engagement & Outreach

Outreach & Engagement

14,067

Social Media
Average Engagement =
108,000 per month
Post Reach = Avg. 30,000

94,037

townofvaldese.com
Avg. # of visits per month = 7,844
+20,000 since 2019
*Morganton, Charlotte, Nashville TN, Ashburn VA

16,000

visitvaldese.com
Site launched in September 2021
5 staff created content saving \$3,500
*Morganton, Charlotte, Nashville TN, Ashburn VA

5,778

E-Newsletter
33% Open Rate
+700 subscribers since 2019

Old Rock School Statistics

613

❖ **Event
s**

1,385

❖ **Visitor
s**

4

❖ **Businesse
s**

10,356

❖ **Attendee
s**

132

❖ **Free
Events**

4

❖ **Organizations**

Old Rock School is home to the following organizations & businesses:

Tenants who pay lease rates:

- Dream Connections, Inc. = 3,350 sq. ft. = \$12,540
- David Harmon Studios = 800 sq. ft. = \$4,200
- Tranquility Day Spa = 700 sq. ft. = \$4,200
- Modern Treatment HealthCare = 120 sq. ft. = \$600
- Piedmont & Western Railroad Club = 2,677 sq. ft. = \$2,760
- Meals on Wheels = Teachers Cottage 1,600 sq. ft. (shared space) = \$2,400

Tenants who occupy ORS free of charge:

- Rock School Arts Foundation = 2,280 sq. ft.
- Old Colony Players = 1,400 sq. ft. + Amphitheatre Facility
- Free use of auditorium, class & dressing rooms - Waldensian Room is blocked during ticketed events
- Valdese Lions Club = Teachers Cottage (2x per month)
- Valdese Rotary Club (Rotary Room) = 382 sq. ft.

Challenges

- Generating Additional Revenues
 - Old Rock School Rentals - "agreements" limit paid event rentals
 - Loss of big event renters - HEARTS & Carolina Broadway Theatre Group
 - Long ago agreements with organizations - Changes could generate over \$50,000

Good News

- County Tourism Dollars are on the rise
 - Estimated increase of over \$20,000 in occupancy tax revenues for 2022-2023
 - OCP - \$7,500 FTDF Advertising Grant -
- Old Rock School Rentals are rebounding after COVID
- Outdoor Event numbers are on the rise

Communication

Advertisements | Promotions | Announcements | Notifications

How do we communicate with citizens?

- Websites
- CodeRED
- Social Media
- Email
- Mailed Newsletters
- Radio
- Flyers
- Media Ads
- Waterbills
- Waterbill Inserts
- New Resident Packets
- Visitor Packets
- Relocation Packets
- Press Releases
- Marquee Listings



New Addition! On townofvaldese.com -

Any important announcement
from PS, PW, TC, etc.

CodeRED
Events
Road Closures
Hydrant Flushing
Water Line Break



How can you be better informed?

- All webpages on townofvaldese.com have this! With Facebook feed!
Newsletter Directory | Bill Pay | Citizens Request | Meetings | Code Enforcement

Small Improvement Projects Completed

Old Rock School | Teachers Cottage | Downtown

- Flood Lights added to the rear of ORS for security - older fixtures replaced
- Chiller Pump - to be repaired by staff - saving approximately \$18,000
- Electrical Upgrades for Old Rock School - Additional outlets, lighting - etc.
- Re-keyed to new master key system - RFF Donation
- Replacement of side entrance door with ADA opener - RFF Donation
- Additional Security Cameras Installed - RFF Donation
- Downtown Landscaping Overhaul - Public Works - Main Street Funds
- Purchased Town Christmas Tree - 20 year life - 18' tall to be installed at ORS

Teachers Cottage



Roof & Floor Replacement

Capital Improvement Plan

Old Rock School | Teachers Cottage

REPLACE STAGE LIGHTING PT. 2	\$80,000.00	2022-2023	Install New LED Stage Lighting System
CLOCK TOWER REPAIR	\$25,000.00	2023-2024	Replace Digital Components, Clock Faces, Chimes, Stucco & Paint
FRONT STEPS & FRONT FAÇADE	\$30,000.00	2023-2024	Tuck & Point Rock Work, Clean, Seal, Resurface Front Steps
PARKING LOTS	\$65,000.00	2024-2025	Resurface, Stripe - Parking Lots
REPLACE AUDITORIUM CARPET & TILE	\$35,000.00	2025-2026	
STAGE WOODWORK REPLACED	\$15,000.00	2025-2026	Repair & Replace facade of auditorium stage

Downtown Improvement Ideas

Streetscape | New Downtown Residents | Gathering Spaces

CREATE "THIRDPLACE"

In community building, the third place is the social surroundings separate from the two usual social environments of home ("first place") and the workplace ("second place").

DOWNTOWN IMPROVEMENT IDEAS

- REMOVE PARKING AREA IN FRONT OF ROCK SCHOOL - REPLACE WITH GRASS LAWN
 - 25 Parking Spaces would be removed (20 spaces added in 2019 with new west lot)
 - Paving \$ vs. increased mowing
 - Restore original design
 - Create gathering place for local residents - GREEN SPACE on Main Street!



DOWNTOWN IMPROVEMENT IDEAS

- CLOSE RODORET STREET BETWEEN 100 MAIN & BOUTIQUE
 - Create outdoor patio space for dining, gathering & art in heart of downtown
 - Connect future businesses on Bobo Street with Main Street



Main & Rodoret Street



Rodoret Street

DOWNTOWN IMPROVEMENT IDEAS

REDESIGN WELCOME SIGNS

- Refresh first impression & welcome
- Improve Landscaping
- Keep existing - back-lite with new logo



Carolina Street



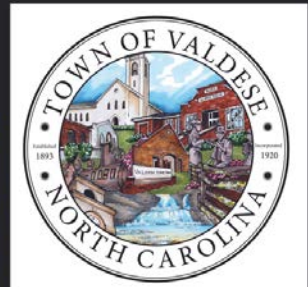
DOWNTOWN IMPROVEMENT IDEAS

REDESIGN GATEWAY SIGNS

- Refresh first impression
- Add landscaping



Carolina Street



- Replace with new colorful graphic of Valdeese
- Enhance with landscaping
- Utilize existing frame

DOWNTOWN IMPROVEMENT IDEAS

Improve the look of the downtown district with new street signs - enhance "charm"



Community Affairs

ANNUAL BUDGET RETREAT 2022

Questions?

PUBLIC WORKS Public Services Director Greg Padgett and Assistant Public Works Director Allen Hudson gave an overview of the services provided by Public Works. Mr. Hudson shared plans of repairing the previous wash bay, which is larger and would prevent washing vehicles inside the shop. Mr. Hudson and Mr. Padgett discussed the extra trash they have to pick up around town. The excess trash is due to citizens overflowing their trash bins. Council discussed ways to improve the process. Mr. Padgett recommended a \$50.00 charge to citizens who have construction debris to be picked up and a \$2.00 increase to the recycling fee. Mr. Padgett also shared that staff would be having a paving assessment completed this year. Mr. Padgett would like to see the sidewalks assessed in the near future to meet ADA compliance and complete repairs.

VALDESE PUBLIC WORKS



WHAT DEPARTMENTS ARE UNDER THE PUBLIC WORKS UMBRELLA

- Administration
- Maintenance of Building and Grounds
- Sanitation
- Street
- Powell Bill

What drives public works

- Preventative maintenance
- Short term or long term planning
- Budget
- Personnel
- Utilize a work order system to track everything
- Complaint or request driven
 - Citizen
 - Internal customer

COMPLETED WORK ORDER

Administration

- Central hub for all public services, including utilities
- Initial public contact for: Trash, Streets, Utilities and all manner of questions.
- Gas and diesel depot for all town equipment/vehicles
- Includes garage.
- Preventative maintenance on town equipment/vehicles
- Minor repairs for town equipment

Scheduled Service



Current Wash Bay

Where staff currently washes vehicles
Doesn't work well for larger equipment
Adjacent to break area



Planned Future Wash Bay

Previously used as wash bay
Did not spend money to maintain equipment
Will allow more room to wash large equipment



Maintenance of Building & Grounds

- Town plantings (mostly main street)
- Cemetery
- Right of way (ROW) mowing where there are sidewalks
- Minor facility maintenance

Centennial Park

Contracted sandblasting of metal part. Staff repaired concrete, painted concrete and painted metal and put back in service.



Sanitation

- Main street trash cans
- Back door service??
- Extra trash pickup?? Why did we start doing this?
- Replacement garbage truck near future.

Trash Issues

This is considered an overflowing trash can by Republic Services. Republic will typically not empty cans like this and it left for public works to go pick it up after the resident calls public works to complain.



March 23 & 24, 2022, MB#31

(b) Construction debris:

(1) The town will not collect construction debris resulting from work performed by a contractor. The contractor and the property owner shall be responsible for promptly disposing of all such construction debris.

(2) Construction debris resulting from work performed by the property owner, individually, (not through a contractor) will be collected by the town provided that the property owner pays the town in advance a fee as determined by the Public Works Director to cover the cost of the collection and disposal of the construction debris.

Staff is recommending a \$50 fee to use the truck for construction debris.

(c) Furniture and white goods: The town will collect only furniture and white goods (appliances) that result from the residential use of the property at which they are to be collected. Such furniture and white goods will be collected at curbside at such times and subject to such other requirements as established by the Public Works Director.

Extra Trash

- Extra trash equaled **387.6 tons** of trash picked up in **2021**
- That is an average of **32.3 tons per month**
- This does include town cans

Extra Trash Pickup

(amount of trash picked up)

According to the town's solid waste ordinance:

(h) Clean cardboard that is broken down and stacked beside a mobile container will be collected by the town at the time it collects the waste in the mobile containers. With the exception of such cardboard, the town will not collect solid waste not located inside the mobile containers.



Republic Services

- Trash
 - 1366.78 tons for 2021
 - Average 113.90 tons per month compared to 112.77 tons/month 2020
- Recycle
 - 282.16 tons for 2021
 - Average 23.51 tons per month compare to 26.65 tons/month 2020
- Propose \$2 increase (discussion)
 - What is our goal? Revenue neutral??

Street

- Street signage
- Patching and pothole repair
- Gravel road maintenance
- Brush pickup
- Leaf pickup
- Storm water

Right of Way Maintenance

Clearing a storm drain along Micol.



Right of Way Maintenance

Regrading of side of road to better control storm water. Laurel Street.



March 23 & 24, 2022, MB#31

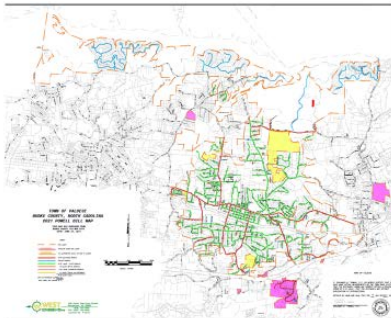
Powell Bill

Stormwater

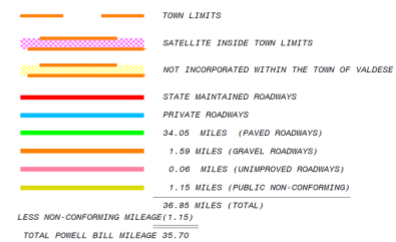
- Western Piedmont Council of Governments (WPCOG)
- 2 year contract, renew July 1, 2023
- Annual report

- Pass thru department – funded by the state
- No control of the amount funded
- Can only be used for town roads or sidewalks and their maintenance
- This is the money we use to pave our roads

Powell Bill Map (Town Streets)



Powell Map Legend



Paving Assessment

Proposals for new paving assessment 2022

Solicited proposals from 4 different companies
 April council agenda
 A tool for planned paving
 Money is the only thing that can bridge the gap in paving



Sidewalk Condition

Sidewalk needs to be extended to street
 ADA compliance is an issue throughout town

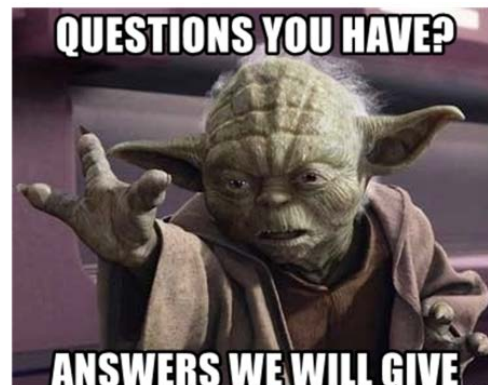
Sidewalk has since been edged



Sidewalk Condition

Needs to be replaced

Council input



At 4:30 p.m., Mayor Watts closed the meeting and continued it to Day 2.

DAY 2 CONTINUED – MARCH 24, 2022

Finance Director Bo Weichel shared the proposed ten-year General Fund Capital Improvement Plan.

March 23 & 24, 2022, MB#31

UTILITY DEPARTMENTS Public Services Director Greg Padgett provided a presentation on recent accomplishments and challenges at the Wastewater and Water Treatment Plants. Mr. Padgett identified various projects that have been completed.

VALDESE PUBLIC UTILITIES

2022-2023

Town of Valdese Water Plant



Water Plant

- Regulations
- Maintaining existing assets
- Increase in demand
 - Population
 - Expansion
 - New industry

Water Plant

- Bleach Conversion completed
- Motor Control Center (MCC) replacement at raw and finished water pump stations

New Liquid Bleach Feed System



Water Usage

Water Sales						
	2020		2021		2022 (projected)	
	# meters	Gallons	# meters	Gallons	# meters	Gallons (projected)
Residential	4929	209,765,221	4,964	209,825,183	4986	205,970,370
Commercial	341	53,214,800	334	65,773,700	336	56,320,200
Industrial	28	257,106,800	26	295,555,400	26	281,659,800
Wholesale	12	201,362,540	9	210,033,200	9	175,117,560

Lake Rhodhiss Wastewater Plant



Wastewater Plant

- Regulations
- Maintaining existing assets

Wastewater

Loader to be replaced
Wood chips – both purchased and generated
Town brush – collected by public works and ground for wood chips



Water Distribution System

After hours repair on Praley St.

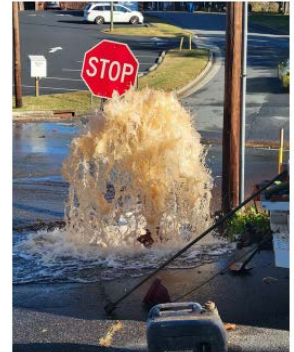


Distribution System

- Future needs / projects
- Hydraulics
- Improvement of pressure
- Expansion
- Quality improvements
- Maintaining existing lines

Sometimes you just have to stop what you are doing and take care of problems

Water leak on Eldred



Collections System

- Future needs / projects
 - Expansion – not likely
- Maintaining current assets
- Active project – cline pump station improvements
- Repair identified problem areas
 - Approximately 600 lf across from town hall

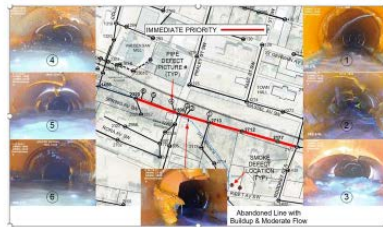
Wastewater Collection System

Sewer stoppage



Sewer Issue

Discovered during I&I project
Emergency Repair
April Agenda



CAPITAL IMPROVEMENTS PLAN WATER & SEWER RATE STUDY R.J. Mozeley with McGill Associates provided updates on recent accomplishments, current projects, upcoming projects and presented the Water and Sewer Utility Fund Capital Improvement Plan. Mr. Mozeley explained to Council that the CIP list items are either for a regulatory requirement, viability as if the equipment will stay running, efficiency, and is their growth needing to expand. These are the four categories that everything on the CIP list has to fit in. Mr. Mozeley discussed a few highlights over the next ten years.

March 23 & 24, 2022, MB#31

Dale Schepers with McGill Associates provided an overview of the Water and Sewer Utility Fund Summary Financial Analysis and Funding Awards Summary. Mr. Schepers noted a graph that shows projected debt services and cash financed CIP over the next several years, and the amounts continue to climb. Mr. Schepers explained that an increase in water and sewer rates would need to occur. Mr. Schepers reminded Council that the numbers are made on assumptions and adjustments would be made in the 10-year plan.

Mr. Mozeley shared the current and proposed water and sewer rates based on the projected numbers. Mr. Mozeley recommends a 4% residential increase, 4% for wholesale, and a 5% increase for commercial and industrial increase for this coming year. The sewer increase would be 4% across the board.



Projects in Progress

- WTP Electrical Upgrades
 - Raw Water PS
 - High Service PS
- Water Asset Inventory & Assessment Grant
- Cline Avenue Basin Improvements



Upcoming/Continuing Projects

- WTP Electrical Sub-Station Upgrades
- Water Asset Inventory & Assessment Grant
- Cline Avenue Basin Improvements
- WTP Treatment Process Replacements
- Failing Sewer Line Replacement
- Water Line Replacement
- Valdeese Bluffs Water & Sewer Grant

Why Develop a CIP

- Planned Infrastructure Replacement
- System Renewal, Reliability & Regulatory Readiness
- System Stability
 - Financial & Operational
- Advantageous Position for Funding
- Manage Future Financial Condition

Why Develop a CIP



Failed Ductile Iron Pipe – 9 years old.

Why Develop a CIP



Water Treatment Plant – Finished Water Clearwell

Why Develop a CIP



Water Treatment Plant – Backup Generator

What Projects Make Up The CIP?

- Assure Infrastructure Viability
- Improve Infrastructure Efficiency
- Satisfy Regulatory Requirements
- System Growth (i.e. new development = new revenue)

Market Considerations

- Energy Sector Inflation 27% increase from 12/2020 – 12/2021
- Consumer Price Index Up 7%
- Construction Bid Market Impacted by COVID
- Supply Chain Strained – Pricing Risk for Contractors
- System Growth is Flat but Costs Escalate

2022 Example Budget Expense Growth:
\$4.738M x 2.5% = \$4.856M in 2023 (\$118K Increase)

Town of Valdese Water and Sewer Utility Fund Capital Improvements Plan

Water Distribution / Sewer Collection														
Project Number	Project Description	10-Yr CIP Cost	Test Year	FY 1	FY 2	FY 3	FY 4	FY 5	FY 6	FY 7	FY 8	FY 9	FY 10	Years 11+
Vehicles and Equipment														
1	2022 Chevy 3500 Diesel 4x4	-	\$5,000											76,130
2	2014 Cat Mini Tractor	87,300			87,300									
3	2009 Pipe Hunter Jet 18 35418	45,800					45,800							
4	2018 Ford F150 Meter Truck	40,000							40,000					
5	Trailer	16,700						16,700						
6	2021 Chevy 4x4	40,000										40,000		
7	2011 Ford 4x4 F350	33,400			33,400									
8	2006 Chevy Dump Truck 1.5 Ton	52,200			52,200									
9	2017 Ford F250 4x4	60,200						60,200						
10	2016 Ford F150 4x4	30,800					30,800							
Subtotal Vehicles and Equipment		408,100	\$6,000	-	172,800	-	78,800	78,800	40,000	-	-	40,000	-	76,130
Infrastructure Improvements														
11	Advent St. Tank and Booster Station	-												3,850,500
12	Meter Replacements	154,100			15,700	16,000	16,400	16,700	17,100	17,500	17,900	18,200	18,600	
13	Renew Arc-Flash Study	7,200				3,400			3,800					2,091,470
14	Harris Avenue PS Gravity Sewer Extension	-												4,403,660
15	Holly Hills Sewer System Extension	-												
16	Ridgewood-180 Loop	907,200			907,200									
17	Int. Home - Hawkins Loop	1,764,100							1,764,100					
18	Acorn Hill Loop	-												3,837,720
19	Water Main Replacement	760,000										760,000		
20	Sewer Main Rehabilitation	3,260,000					1,630,000				1,760,000			
Subtotal - Infrastructure Improvements		8,882,800	-	-	16,700	828,800	1,616,400	18,700	1,786,900	17,600	1,787,900	788,200	18,800	14,183,360
Subtotal - Water Distribution / Sewer Collection		7,338,700	\$6,000	-	188,800	828,800	1,632,700	93,800	1,826,000	17,600	1,787,900	808,200	18,800	14,269,480
Test Year (FY22) CIP: Water Distribution / Sewer Collection		7,338,700		0	188,800	828,800	1,632,700	93,800	1,826,000	17,600	1,787,900	808,200	18,800	14,269,480
10-Yr CIP: Water Distribution / Sewer Collection		7,338,700		0	188,800	828,800	1,632,700	93,800	1,826,000	17,600	1,787,900	808,200	18,800	14,269,480

Town of Valdese Water and Sewer Utility Fund Capital Improvements Plan

Water Treatment Division														
Project Number	Project Description	10-Yr CIP Cost	Test Year	FY 1	FY 2	FY 3	FY 4	FY 5	FY 6	FY 7	FY 8	FY 9	FY 10	Years 11+
Vehicles and Equipment														
1	2018 Explorer	32,700					32,700							
2	2017 Ford F-250	34,600						34,600						
3	2004 Ford F-150	28,200			28,200									
4	New 4-Wheel Drive Lawnmower	17,600					17,600							
Subtotal Vehicles and Equipment		113,900	-	-	28,200	-	60,300	34,600	-	-	-	-	-	-
Plant Upgrades and Improvements														
5	Roof Replacement - Main Building	-	\$5,000											
6	Roof Replacement - Potable Water PS	20,900			20,900									
7	Roof Replacement - Raw Water PS	25,000		25,000										
8	Water Treatment Plant Upgrades	4,763,900			4,763,900									
9	Raw Water Pump, Piping & Valve Replacement	4,321,630											4,321,630	4,451,280
10	Pave Raw Water PS Access Road	-												166,100
11	Renew Arc-Flash Study	36,600				16,600			20,000					
12	SCADA Upgrades (ask #2 and #3 P&W)	45,000	20,000				45,000							
13	Move #2 and #3 two mcs to roof (upstairs)	-				8,000	80,000							180,000
14	Tank Maintenance	88,000	20,000											
15	WTP Equipment Rehab & Replacement	120,000			-						125,000			
16	Electrical Substation	375,000		375,000										
Subtotal - Plant Upgrades and Improvements		8,801,830	\$6,000	400,000	4,784,800	24,600	125,000	-	20,000	-	125,000	-	4,321,630	4,767,380
Total - Water Treatment Division		8,914,930	\$6,000	400,000	4,813,600	24,600	175,200	34,600	20,000	-	125,000	-	4,321,630	4,767,380
Test Year (FY22) CIP: Water Treatment Division		8,914,930		400,000	4,813,600	24,600	175,200	34,600	20,000	0	125,000	0	4,321,630	4,767,380
10-Yr CIP: Water Treatment Division FY22-32		8,914,930		400,000	4,813,600	24,600	175,200	34,600	20,000	0	125,000	0	4,321,630	4,767,380

March 23 & 24, 2022, MB#31

Town of Valdese Water and Sewer Utility Fund Capital Improvements Plan

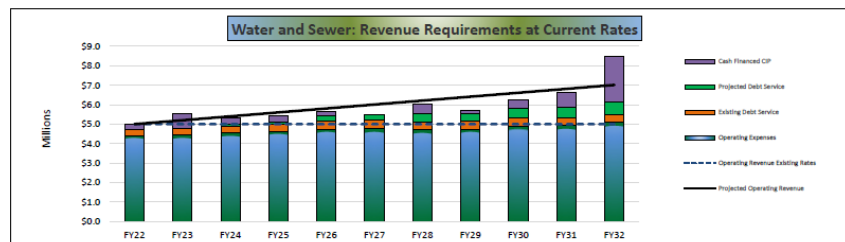
Wastewater Treatment Division														
Project Number	Project Description	10-Yr CIP Cost	Test Year	FY 1	FY 2	FY 3	FY 4	FY 5	FY 6	FY 7	FY 8	FY 9	FY 10	Years 11+
Vehicles and Equipment														
1	1996 Biosolids Truck	62,400			62,400									
2	Sludge Trailer	38,500			38,500									
3	2008 Compost Loader	188,600		188,600										
4	2014 Plant Truck	32,700					32,700							
5	Main Vehicle 2013	-	35,000											
6	2017 Lab Truck	28,500						28,500						
7	Riding Mower (2004)	11,800							11,800					10,100
Subtotal Vehicles and Equipment		332,600	35,000	188,600	100,900	-	32,700	-	28,500	11,800	-	-	-	10,100
Plant Upgrades and Improvements														
8	Seal Replacement for Influent Pumps 1&2	7,400	6,000							7,400				18,300
9	Seal Replacement for Influent Pumps 3&4	16,900					16,900							6,000
10	Seal Replacement for Secondary Waste Pumps	-	9,300											
11	Seal Replacement for Sludge Recycle Pumps	11,000				11,000								
12	Centrifuge #2 Overhaul	80,600			80,600									
13	Centrifuge #1 Overhaul	93,000				93,000								
14	Roof 502 Building	-	15,730											
15	Admin Building Roof	70,000					70,000							
16	Dewatering Building Roof	115,000									115,000			
17	Sludge Recycle PB Building Roof	56,000							56,000					
18	Sludge Grinder #1	-												20,000
19	Sludge Grinder #2	-												19,100
20	Aeration Basin	-												5,963,800
21	Spare Pump Cline Street	6,500			6,500									
22	Cline Street PB Modifications	1,490,000			1,490,000									
23	Spare Pump Morgan Trace	8,700	8,000				8,700							
24	Spare Pump High Meadows	8,700	8,000				8,700							
25	Spare Pump John Berry	-												108,000
26	Spare Pump Selts	-												55,000
27	Primary Clarifier #2 Drive & Bridge Replacement	-	110,500											
28	SCADA	29,300												
29	Renew Arc-Flash Study	31,700				13,700	13,500		16,000			19,700		
30	8" Compound Flow Meter	-												83,050
31	Biosolids Drying Equipment	-												10,800,000
32	Conversion to Ultraviolet Disinfection	-												937,000
33	Concrete Work at Compost Pad	88,000			40,000				28,000					
34	PV/TB Equipment Rehab & Replacement	438,500							116,500	120,000	200,000			
35	Recycle Pump / Motor / VFD Replace	206,000		206,000										
Subtotal Plant Upgrades and Improvements		2,722,280	167,630	206,000	1,617,100	126,100	106,400	-	216,600	127,400	916,000	16,700	-	18,006,280
Subtotal - Wastewater Treatment Division		3,064,780	182,630	394,600	1,718,000	126,100	139,100	-	244,600	139,200	916,000	16,700	-	18,016,380
Total Water System Capital Improvements Plan														
Test Year (FY22) CIP: Total Water System		342,530												
10-Yr CIP: Total Water System		20,207,430		764,600	6,719,600	1,076,300	1,901,000	128,200	2,089,000	156,700	2,207,900	823,900	4,340,230	37,037,210

Valdese, NC Revenue Requirements Analysis

Financial Model Output Summary 10-Year Planning Period

Revenue											
Description	FY22	FY23	FY24	FY25	FY26	FY27	FY28	FY29	FY30	FY31	FY32
Operating Revenue Existing Rates	5,002,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000	4,997,000
New Revenue (Cumulative amount)	202,000	404,000	606,000	808,000	1,010,000	1,212,000	1,414,000	1,615,000	1,817,000	2,019,000	2,219,000
Projected Operating Revenue	5,002,000	5,199,000	5,401,000	5,603,000	5,805,000	6,007,000	6,209,000	6,411,000	6,612,000	6,814,000	7,016,000
Non Operating Revenue from Capital Reserve		365,000	182,000	111,000	70,000	-	-	-	-	-	-
Expenses											
Operating Expenses	4,415,000	4,435,000	4,542,000	4,621,000	4,738,000	4,764,000	4,704,000	4,733,000	4,888,000	4,917,000	5,086,000
Cash Financed CIP	253,000	765,000	323,000	301,000	242,000	17,000	521,000	145,000	458,000	784,000	2,340,000
Projected Debt Service	20,000	-	85,000	131,000	258,000	283,000	392,000	395,000	507,000	516,000	647,000
Existing Debt Service	283,000	365,000	365,000	365,000	431,000	437,000	421,000	420,000	419,000	419,000	418,000
Percent Increase Applied											
Revenue Adjustment Percentage		4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Financial Outcomes											
Expenses to Cover	4,971,000	5,565,000	5,315,000	5,418,000	5,669,000	5,561,000	6,038,000	5,693,000	6,272,000	6,836,000	8,491,000
Difference / (Shortage)		(1,000)	268,000	296,000	206,000	506,000	171,000	716,000	340,000	178,000	(1,475,000)
Effect on Customer Bills											
Combined Residential Bill 3,000 gal	\$ 41.40	\$ 43.10	\$ 44.90	\$ 46.75	\$ 48.65	\$ 50.65	\$ 52.75	\$ 54.90	\$ 57.15	\$ 59.50	\$ 61.95
Monthly Combined Residential Bill Change		\$ 1.70	\$ 1.80	\$ 1.85	\$ 1.90	\$ 2.00	\$ 2.10	\$ 2.15	\$ 2.25	\$ 2.35	\$ 2.45
Financial Indicators											
Fund Balance Tracker	1,648,000	1,647,000	1,915,000	2,211,000	2,417,000	2,923,000	3,094,000	3,812,000	4,152,000	4,330,000	2,855,000
Fund Balance Days Cash on Hand	121	108	132	149	156	194	187	244	242	238	123
Fund Balance % of Expenses to Cover	33%	30%	36%	41%	43%	53%	51%	67%	66%	65%	34%
Capital Reserve Fund	737,000	372,000	190,000	79,000	9,000	9,000	9,000	9,000	9,000	9,000	9,000

Summary Chart



Water/Sewer Utility Capital Investment

Description	Total CIP	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29	FY 30	FY 31	FY 32
Water Treatment	9,914,000	400,000	4,813,000	24,600	175,200	34,600	20,000	-	125,000	-	4,321,600
Wastewater Treatment	3,055,000	364,600	1,718,000	125,100	133,100	-	244,000	139,200	315,000	15,700	-
Water Distribution / Sewer Collection	7,239,000	-	188,800	926,600	1,592,700	93,600	1,625,000	17,500	1,767,900	808,200	18,600
Total Water&Sewer System CIP	20,208,000	764,600	6,719,600	1,076,300	1,901,000	128,200	2,089,000	156,700	2,207,900	823,900	4,340,200

FY2023 Rate Recommendations

Water

- 4% Residential
- 5% Commercial & Industrial
- 4% Wholesale

Sewer

- 4% All Classes

Percentage Increase	Monthly Residential Increase (3,000 gal)	Resulting 2023 Enterprise Fund Revenue
4%	\$1.70	\$202,000

Wisdom in Affordability & Balance

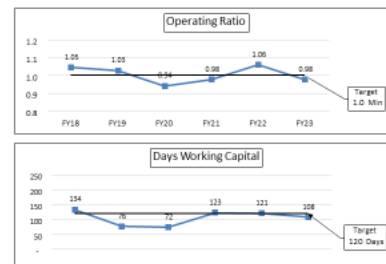
- Manage the Enterprise Fund's Health
- Avoid Deferrals, Costs Always Escalate
- Accomplish Projects
 - Spend Cash / Borrow / Manage Rate Increases
- Manage Debt Load
- Town's Regional Presence & Longevity
- Viability & the Utility Industry

Financial Benchmarks

Metric	2022 Value	Proposed 2023 Value	Benchmark
Operating Ratio	1.06	0.98	1.0 or greater
Days Working Capital	121 days	108 days	120 days or greater
Debt Service Coverage Ratio	3.85	2.17	1.2 or greater
Sufficiency of Revenue above Debt	6%	7%	25% or less

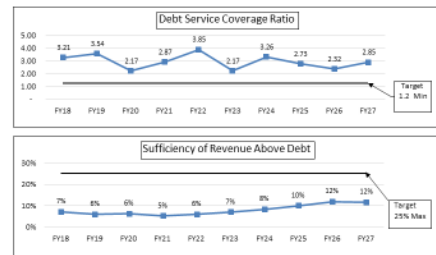
Note: All benchmark values are projections from FY21 audit values.

Financial Benchmark Trend Projections



Note: All benchmark values are projections using FY21 audit values.

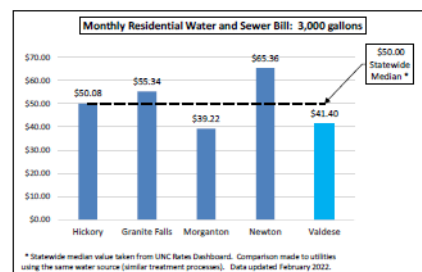
Financial Benchmark Trend Projections



Note: All benchmark values are projections using FY21 audit values.

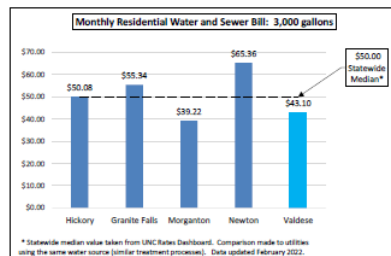
Residential Water Bill Comparison

Monthly Residential Bill: Existing Rates



Residential Water Bill Comparison

Monthly Residential Bill: Proposed Rates



Recap / Conclusions

- 7th Year of CIP & Financial Model Planning Process
- CIP Guides Decision Making, Budgeting & Operations
- Balance Cash vs Debt vs Rate Increases
- Future Capital Needs
- Healthy and Sustainable Enterprise Fund

Percentage Increase	Monthly Residential Increase (3,000 gal)	Resulting 2023 Enterprise Fund Revenue
4%	\$1.70	\$202,000

ADJOURNMENT: At 12:17 p.m., there being no further business to come before Council, Councilwoman Lowman made a motion to adjourn, seconded by Councilwoman Hildebran. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, April 4, 2022, 6:00 p.m., Valdese Town Hall.

Town Clerk

Mayor

jl

COUNCIL AGENDA MEMO

To: Town Clerk
From: Bo D. Weichel / Finance Director
Agenda: 4/04/2022
Re: 2021 Delinquent Taxes

REQUEST

G.S. 105-369(a) mandates that the tax collector must first inform the governing body of and then advertise the "total amount of unpaid taxes for the current fiscal year that are liens on real property".

BACKGROUND

A taxing unit has the option of also advertising personal property taxes that are not a lien on real property, but the cost of that advertisement may not be passed along to taxpayers as is the cost of the real property tax lien advertisement. The amount advertised should be only the principal amount of taxes owed, not including any interest, costs, or fees.

G.S. 105-369(c) requires that real property tax liens for the current year be advertised at any time from March 1 through June 30.

Three actions must occur before the advertisement may be published and posted. (1) The governing body is informed of the "total amount of unpaid taxes for the current fiscal year that are liens on real property". (2) The governing body must issue an order to the tax collector to advertise the tax liens; the order will be issued, presumably, immediately upon receipt of the tax collector's report. (3) At least thirty days before the advertisement is published and posted, the tax collector must provide written notice to the affected taxpayers of the intent to publish outstanding current tax liens.

ANALYSIS

In compliance with item (1) above, the Tax Collector reports a total amount of unpaid 2021 Real Property taxes to be \$78,949.82.

In compliance with item (3) above, written notice was provided on March 2, 2022.

RECOMMENDATION

The Tax Collector has informed Town Council of the unpaid tax amounts for the current fiscal year. It is recommended that Council issue an order to advertise all real tax amounts in the Morganton News Herald in an attempt to collect the outstanding amounts. The advertisement date will be Sunday April 10, 2022.

BUDGET ANALYSIS:***Budgetary Action***

Is a Budget Amendment required?

Yes

☐

No

☒
LIST THE EXPENDITURE CODE:

**ORDER OF THE TOWN OF VALDESE CITY COUNCIL
IN ACCORDANCE WITH NCGS 105-369**

State of North Carolina
Town of Valdese

To: Kimberly Cline, Tax Collector, Town of Valdese

- You are hereby authorized, empowered, and commanded to advertise tax liens on real property for failure to pay 2021 property taxes.
- You shall advertise said liens by publishing each lien in the local newspaper having general circulation in Valdese and adjacent areas.
- Advertisement of the liens shall be made on **Sunday April 10, 2022.**

This order shall be full and sufficient authority to direct, require, and enable you to advertise said tax liens in accordance with North Carolina General Statute 105-369.

Witness my hand and official seal, this 4th day of April 2022.

Charles Watts
Mayor

Attest:

Jessica Lail
Town Clerk

SPRING LITTER SWEEP

**NORTH
CAROLINA**

APRIL 16–30, 2022

Volunteer Locally

N.C. Department of Transportation
BIANNUAL CLEANUP DRIVE



*Forms, posters and
telephone listings are
available on our website.*

ncdot.gov/littersweep

Share your clean-up images at:

#LitterSweepNC



ADOPT-A-HIGHWAY

Learn how you can help keep
North Carolina beautiful.
apps.ncdot.gov/LM



SWAT-A-LITTERBUG

Littering is illegal and a fineable offense upon conviction. G.S. 14-399. Let us know when a person is littering by contacting Litter Management through the Online Swat-A-Litterbug process or by calling the NC State Highway Patrol at *HP or NCDOT Litter Management at **1-800-331-5864**. Find out more at **ncdot.gov/litterbug**.

SPRING LITTER SWEEP APRIL 16-30, 2022

VOLUNTEER SAFETY RULES AND GUIDELINES

- ▶ Park in areas that: provide safe entrance and exit of the pickup area; do not create hazards with other vehicles and equipment operating near the work area; and provide maximum protection for volunteers getting in and out of the vehicle.
- ▶ All volunteers must wear a NCDOT approved orange safety vest. It is a good practice to wear long-sleeve shirts, gloves and high-top boots to protect against unforeseen hazards.
- ▶ Take extra precautions to prevent heat and cold stress when working in extreme temperatures. Pick up only during daylight hours and stop work during inclement weather.
- ▶ Face oncoming traffic while on foot. Stay off the road at least five feet from the pavement edge.
- ▶ Do not pick up in ditches, tunnels, on road surfaces, bridges, overpasses or medians. Avoid any construction areas.
- ▶ Work in small groups, allowing ample space for each volunteer to work safely.
- ▶ Place tools in a safe position so that sharp points are not exposed.
- ▶ Be aware of hidden obstructions that may have sharp edges and broken glass, especially in grassy areas.
- ▶ Do not attempt to squeeze bags to make room for more trash. Use caution when handling trash bags containing broken or sharp objects. Use proper lifting techniques when lifting bags.

- ▶ Do not pick up what appears to be hazardous material or any type of container with unknown contents (notify your local coordinator or NCDOT maintenance office if you encounter hazardous objects or holes, guy wires and other hidden obstacles in the ground.)
- ▶ Place trash bags where they can be easily retrieved by NCDOT personnel, but well clear of roadway traffic.
- ▶ Do not use or possess illegal drugs or alcohol prior to or during a cleanup.
- ▶ Provide adequate supervision by one or more adults 21 years of age or older for groups that have volunteers 12-17 years of age. All volunteers must be at least 12 years of age with adult supervision to participate.
- ▶ Know the routes to medical care in case of emergency and have a first-aid kit readily available.
- ▶ Conduct a safety meeting for all volunteers prior to each cleanup and go over all safety procedures, rules and guidelines. View the “North Carolina Adopt-A-Highway Safety” video and the “Colorado Meth Lab Waste Recognition” video prior to participating in a cleanup.

You can access all safety information and videos from our website at ncdot.gov/littersweep.

MATERIALS & PICKUP

Visit your local NCDOT maintenance office for **gloves, safety vests** and **orange trash bags that are reversible to a blue color for glass, metal and plastic for recycling**. Dispose of recyclables yourself.

Please report pickups online at apps.ncdot.gov/LM (info needed: **Pickup key, route cleaned, # of volunteers, hours worked, # of recyclable bags and trash bags, and is NCDOT bag pick up needed.**) If you are not an Adopt-A-Highway volunteer, please use the Other Volunteer Pickup Key: NSLKC.

REMINDER: It is illegal to dispose of aluminum cans and plastic bottles in landfills.

FORMS TO DOWNLOAD

Visit ncdot.gov/littersweep to download forms:

☐

Spring 2022 Litter Sweep poster

☐

Certificate of Appreciation request form

☐

Safety rules and regulations for volunteers

☐

Adopt-A-Highway reporting instructions

☐

Litter Sweep cleanup procedures

☐

Adopt-A-Highway media form

☐

For questions or to request copies, call 1-800-331-5864

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Litter Management
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Raleigh, NC 27699-1540

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<<City>>

THANK YOU
FOR SAFELY
PARTICIPATING
IN LITTER SWEEP

Mail to: NCDOT Litter Management, 1540 Mail Service Center, Raleigh, NC 27699-1540
Email to: kasawyer2@ncdot.gov

DEADLINE TO REQUEST CERTIFICATE IS **MAY 31, 2022**

Email

Phone (Work)

Home

City

State

ZIP

County

Address

Mail to

Issue in name of

REQUEST FOR CERTIFICATE OF APPRECIATION (*Please Print*)

SPRING 2022
LITTER SWEEP
April 16-30, 2022

 Please recycle this mailer after use.



Town of Valdese,

Strategic planning for our annual fundraising efforts for the American Legion Post 234 in Valdese has begun. With this being said I, Phil Ramsey Commander of Post 234, would like to formally request permission for our Ladies Auxiliary to sell beer at the following Town sponsored events:

-Independence Day Celebration on July 1, 2022 from 5:00pm until 11:00pm

-47th Annual Waldensian Festival

- August 12, 2022 from 5pm until 11pm
- August 13, 2022 from 5pm until 10:00pm

(In the designated area in the 100 block of West Main Street in Downtown Valdese)

The American Legion was founded in 1919 in Paris, France, at the close of World War I. The organization now includes veterans of World War II, Korea, Vietnam, Lebanon/Grenada periods, Operation Just Cause in Panama, Desert Storm, Enduring Freedom, Operation Iraqi Freedom and Global War On Terror. The American Legion Post 234 in Valdese, North Carolina provides local outreach to veterans, provides support to local schools, and serves community needs.

It Is our mission to support the community, provide for local veterans of all ages, and raise awareness and engage in fundraisers for veterans concerns both nationally and within the city of Valdese, NC. In order to meet our mission and provide these services in our community, we rely on these fundraisers and the generosity of individuals and businesses for support. Without the assistance of community-minded Individuals just like you, we wouldn't be able to serve veterans and their families both locally and abroad as well as contribute to needs within our community each year.

Thank you for considering our request.

Sincerely,

Phil Ramsey

Post Commander

American Legion Post 234

Phone: 828-879-8982 or 828-522-1511(Cell) with any questions.

Tax Classifications: 601 (c)19 Not for profit military organization

FIN: 56-1881998

Memorandum

To: Charlie Watts, Mayor
Town Council Members

From: Larry Johnson, Planning Director

Date: April 1, 2022

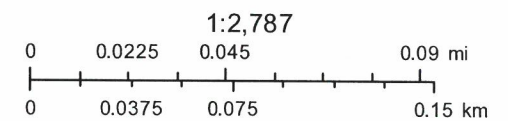
Subject: Set Public Hearing Date for
Zoning Map Amendment

Staff respectfully request that Council set May 2, 2022, as the date to hold a public hearing for Zoning Map (rezoning) Amendment 2-3-22.

The Town purchased and received four parcels located along Pineburr Avenue and further identified as the Pineburr Mill Property. Currently zoned a combination of R-8 Residential, R-12 Residential, and M-1 Manufacturing, the Staff, is requesting a B-2 General Business District designation for the four properties. Any change in the zoning map requires a public hearing by Town Council.

Staff will present the recommendation of the Valdese Planning Board on the rezoning during the May Town Council Meeting. An attached Zoning Map identifies the parcels and their zoning designations.

If you have comments or questions, do not hesitate to contact me.



Meeting Date: Monday, April 4, 2022

To: Valdese Town Council
 From: Erin Schotte, WPCOG Community Development Administrator
 Sherry Long, WPCOG Assistant Executive Director
 Re: Meridian Yarns Water Project CDBG Close-Out

The Valdese Town Council will hold a public hearing to receive public comments for the close-out of the Meridian Yarns Water Project, Community Development Block Grant (CDBG) Number 14-E-2698. The grant-funded project installed a generator, valve, and associated appurtenances at the Valdese water treatment plant. The water treatment plant improvements enabled a local business—Meridian Yarns—to expand their operations into a new building addition and to retain 146 employees. The project cost was \$1,000,000 and CDBG funds provided 100% of the total expenditures. Final grant monitoring and reporting has been completed, and a public hearing is required to close out the grant project.

Executive Committee: Jill Patton, Chair | Joseph L. Gibbons, Vice Chair | Larry Chapman, Secretary | George B. Holleman, Treasurer | Bob Floyd, Jr., Past Chair | **At-Large Members:** Wayne F. Abele, Sr. | Kitty W. Barnes | Marla Thompson | Larry Yoder | **Executive Director,** Anthony W. Starr

Serving: Alexander County | Taylorsville | Burke County | Connelly Springs | Drexel | Glen Alpine | Hildebran | Morganton | Rutherford College | Valdese | Caldwell County | Cahah's Mountain | Cedar Rock | Gamewell | Granite Falls | Hudson | Lenoir | Rhodhiss | Sawmills | Catawba County | Brookford | Catawba | Claremont | Conover | Hickory | Long View | Maiden | Newton

RESOLUTION BY GOVERNING BODY OF APPLICANT

- WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of drinking water treatment works, and
- WHEREAS, The Town of Valdese has need for and intends to construct a drinking water treatment works project described as Valdese Water Treatment Plant Improvements, and
- WHEREAS, The Town of Valdese intends to request State loan and/or grant assistance for the project,

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF VALDESE:

That Town of Valdese, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Valdese to make scheduled repayment of the loan, to withhold from the Town of Valdese any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Seth Eckard, Town Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the study of or construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 4th of April, 2022 at Valdese, North Carolina.

Charles Watts, Mayor

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting _____ (title of officer) of the Town of Valdese does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the Valdese Town Council duly held on the 4th day of April, 2022; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of April, 2022.

Jessica Lail, Town Clerk

Town of Valdese Water and Sewer Utility Fund

Capital Improvements Plan

Water Distribution / Sewer Collection														
Project Number	Project Description	10-Yr CIP Cost Cost	Test Year 2022	FY 1 2023	FY 2 2024	FY 3 2025	FY 4 2026	FY 5 2027	FY 6 2028	FY 7 2029	FY 8 2030	FY 9 2031	FY 10 2032	Years 11+ 2033
Vehicles and Equipment														
1	2022 Chevy 3500 Diesel 4x4	-	55,000											76,130
2	2014 Cat Mini Trackhoe	87,300			87,300									
3	2009 Pipe Hunter Jet M 35418	45,800					45,800							
4	2018 Ford F150 Meter Truck	40,000							40,000					
5	Trailer	16,700						16,700						
6	2021 Chevy 4x4	40,000										40,000		
7	2011 Ford 4x4 F350	33,400			33,400									
8	2006 Chevy Dump Truck 1.5 Ton	52,200			52,200									
9	2017 Ford F250 4x4	60,200						60,200						
10	2016 Ford F150 4x4	30,500					30,500							
Subtotal Vehicles and Equipment		406,100	55,000	-	172,900	-	76,300	76,900	40,000	-	-	40,000	-	76,130
Infrastructure Improvements														
11	Advent St. Tank and Booster Station	-												3,850,500
12	Meter Replacements	154,100			15,700	16,000	16,400	16,700	17,100	17,500	17,900	18,200	18,600	
13	Renew Arc-Flash Study	7,200				3,400			3,800					
14	Harris Avenue PS Gravity Sewer Extension	-												2,091,470
15	Holly Hills Sewer System Extension	-												4,403,660
16	Ridgewood-18S Loop	907,200				907,200								
17	Mt. Home - Hawkins Loop	1,764,100							1,764,100					
18	Jacumin Rd. Loop	-												3,837,720
19	Water Main Replacement	750,000										750,000		
20	Sewer Main Rehabilitation	3,250,000					1,500,000				1,750,000			
Subtotal - Infrastructure Improvements		6,832,600	-	-	15,700	926,600	1,516,400	16,700	1,785,000	17,500	1,767,900	768,200	18,600	14,183,350
Subtotal- Water Distribution / Sewer Collection		7,238,700	55,000	-	188,600	926,600	1,592,700	93,600	1,825,000	17,500	1,767,900	808,200	18,600	14,259,480
Test Year (FY22) CIP: Water Distribution / Sewer Collection			55,000											
10-Yr CIP: Water Distribution / Sewer Collection		7,238,700		0	188,600	926,600	1,592,700	93,600	1,825,000	17,500	1,767,900	808,200	18,600	14,259,480

Town of Valdese Water and Sewer Utility Fund

Capital Improvements Plan

Water Treatment Division														
Project Number	Project Description	10-Yr CIP Cost Cost	Test Year 2022	FY 1 2023	FY 2 2024	FY 3 2025	FY 4 2026	FY 5 2027	FY 6 2028	FY 7 2029	FY 8 2030	FY 9 2031	FY 10 2032	Years 11+
Vehicles and Equipment														
1	2018 Explorer	32,700					32,700							
2	2017 Ford F-250	34,600						34,600						
3	2004 Ford F-150	28,200			28,200									
4	New 4-Wheel Drive Lawnmower	17,500					17,500							
Subtotal Vehicles and Equipment		113,000	-	-	28,200	-	50,200	34,600	-	-	-	-	-	-
Plant Upgrades and Improvements														
5	Roof Replacement - Main Building	-	55,000											
6	Roof Replacement - Finished Water PS	20,900			20,900									
7	Roof Replacement - Raw Water PS	25,000		25,000										
8	Water Treatment Plant Upgrades	4,763,900			4,763,900									
9	Raw Water Pump, Piping & Valve Replacement	4,321,630											4,321,630	4,451,280
10	Pave Raw Water PS Access Road	-												166,100
11	Renew Arc-Flash Study	36,600				16,600			20,000					
12	SCADA Upgrades (add #2 and #3 FWP)	45,000	20,000				45,000							
13	Move #2 and #3 fwp mcc to roof (upstairs)	-												150,000
14	Tank Maintenance	88,000	20,000			8,000	80,000							
15	WTP Equipment Rehab & Replacement	125,000			-						125,000			
16	Electrical Substation	375,000		375,000										
Subtotal - Plant Upgrades and Improvements		9,801,030	95,000	400,000	4,784,800	24,600	125,000	-	20,000	-	125,000	-	4,321,630	4,767,380
Total - Water Treatment Division		9,914,030	95,000	400,000	4,813,000	24,600	175,200	34,600	20,000	-	125,000	-	4,321,630	4,767,380
Test Year (FY22) CIP: Water Treatment Division			95,000											
10-Yr CIP: Water Treatement Division FY23-32		9,914,030		400,000	4,813,000	24,600	175,200	34,600	20,000	0	125,000	0	4,321,630	4,767,380

Town of Valdese Water and Sewer Utility Fund

Capital Improvements Plan

Wastewater Treatment Division														
Project Number	Project Description	10-Yr CIP Cost Cost	Test Year 2022	FY 1 2023	FY 2 2024	FY 3 2025	FY 4 2026	FY 5 2027	FY 6 2028	FY 7 2029	FY 8 2030	FY 9 2031	FY 10 2032	Years 11+
Vehicles and Equipment														
1	1998 Biosolids Truck	62,400			62,400									
2	Sludge Trailer	38,500			38,500									
3	2008 Compost Loader	158,600		158,600										
4	2014 Plant Truck	32,700					32,700							
5	Maint Vehicle 2013	-	35,000											
6	2017 Lab Truck	28,500							28,500					
7	Riding Mower (2004)	11,800								11,800				10,100
Subtotal Vehicles and Equipment		332,500	35,000	158,600	100,900	-	32,700	-	28,500	11,800	-	-	-	10,100
Plant Upgrades and Improvements														
8	Seal Replacement for Influent Pumps 1&2	7,400	6,000							7,400				18,300
9	Seal Replacement for Influent Pumps 3&4	16,900					16,900							6,000
10	Seal Replacement for Secondary Waste Pumps	-	9,300											
11	Seal Replacement for Sludge Recycle Pumps	11,000				11,000								
12	Centrifuge #2 Overhaul	80,600			80,600									
13	Centrifuge #1 Overhaul	83,000				83,000								
14	Roof SO2 Building	-	15,730											
15	Admin Building Roof	70,000					70,000							
16	Dewatering Building Roof	115,000									115,000			
17	Sludge Recycle PS Building Roof	56,000							56,000					
18	Sludge Grinder #1	-												20,000
19	Sludge Grinder #2	-												19,100
20	Aeration Basin	-												5,953,800
21	Spare Pump Cline Street	6,500			6,500									
22	Cline Street PS Modifications	1,490,000			1,490,000									
23	Spare Pump Morgan Trace	8,700	8,000			8,700								
24	Spare Pump High Meadows	8,700	8,000			8,700								
25	Spare Pump John Berry	-												108,000
26	Spare Pump Seitz	-												55,000
27	Primary Clarifier #2 Drive & Bridge Replacement	-	110,500											
28	SCADA	29,200					13,500					15,700		
29	Renew Arc-Flash Study	31,700				13,700			18,000					
30	6" Compound Flow Meter	-												83,050
31	Biosolids Drying Equipment	-												10,800,000
32	Conversion to Ultraviolet Disinfection	-												937,000
33	Concrete Work at Compost Pad	65,000			40,000				25,000					
34	WWTP Equipment Rehab & Replacement	436,500							116,500	120,000	200,000			
35	Recycle Pump / Motor / VFD Replace	206,000		206,000										
Subtotal Plant Upgrades and Improvements		2,722,200	157,530	206,000	1,617,100	125,100	100,400	-	215,500	127,400	315,000	15,700	-	18,000,250
Subtotal - Wastewater Treatment Division		3,054,700	192,530	364,600	1,718,000	125,100	133,100	-	244,000	139,200	315,000	15,700	-	18,010,350
Total Water System Capital Improvements Plan														
Test Year (FY22) CIP: Total Water System				342,530										
10-Yr CIP: Total Water System		20,207,430		764,600	6,719,600	1,076,300	1,901,000	128,200	2,089,000	156,700	2,207,900	823,900	4,340,230	37,037,210

RESOLUTION BY THE VALDESE TOWN COUNCIL

WHEREAS, The Town of Valdese has committed to developing and maintaining an up-to-date 10-year Water and Sewer Capital Improvements Plan (CIP) and associated financial analysis of user rates and charges, and

WHEREAS, McGill Associates prepared the Town's regular annual update for the CIP and presented the updated CIP to the Town Council of the Town of Valdese on the 24th day of March, 2022 during the Town's annual budget retreat.

NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF VALDESE:

That the Town of Valdese, does hereby adopt and enact the aforementioned CIP effective the 4th day of April, 2022.

Adopted this the 4th day of April, 2022 at Valdese, North Carolina.

Charles Watts, Mayor

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting Town Clerk of the Town of Valdese does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the adoption of a 10-year Capital Improvements Plan (CIP), as regularly adopted at a legally convened meeting of the Valdese Town Council duly held on the 4th day of April, 2022; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of April, 2022.

Jessica Lail, Town Clerk

COUNCIL AGENDA MEMO

To: Town Clerk
From: Greg Padgett, Public Services Director
Date: April 4, 2022
Re: Sewer Line Repair

REQUEST

Appropriations of funds to repair approximately 590 linear feet of the sewer line.

BACKGROUND

This section of the sewer line was identified as part of the AIA Wastewater grant project shared with the Council at the March meeting. The repair will replace approximately 590 linear feet of failing sewer line and three manholes located across from Town Hall just south of the railroad tracks. This repair will fix a potential environmental issue and reduce the amount of water getting into the system.

RECOMMENDATION

Staff recommends replacing the 8" terra cotta (clay) sewer line with an 8" PVC DR 26 line. Three (3) new manholes will be installed as part of this repair and are included in the price. The cost of the project as recommended is \$59,025.00.

BUDGET ANALYSIS:***Budgetary Action***

Is a Budget Amendment required?

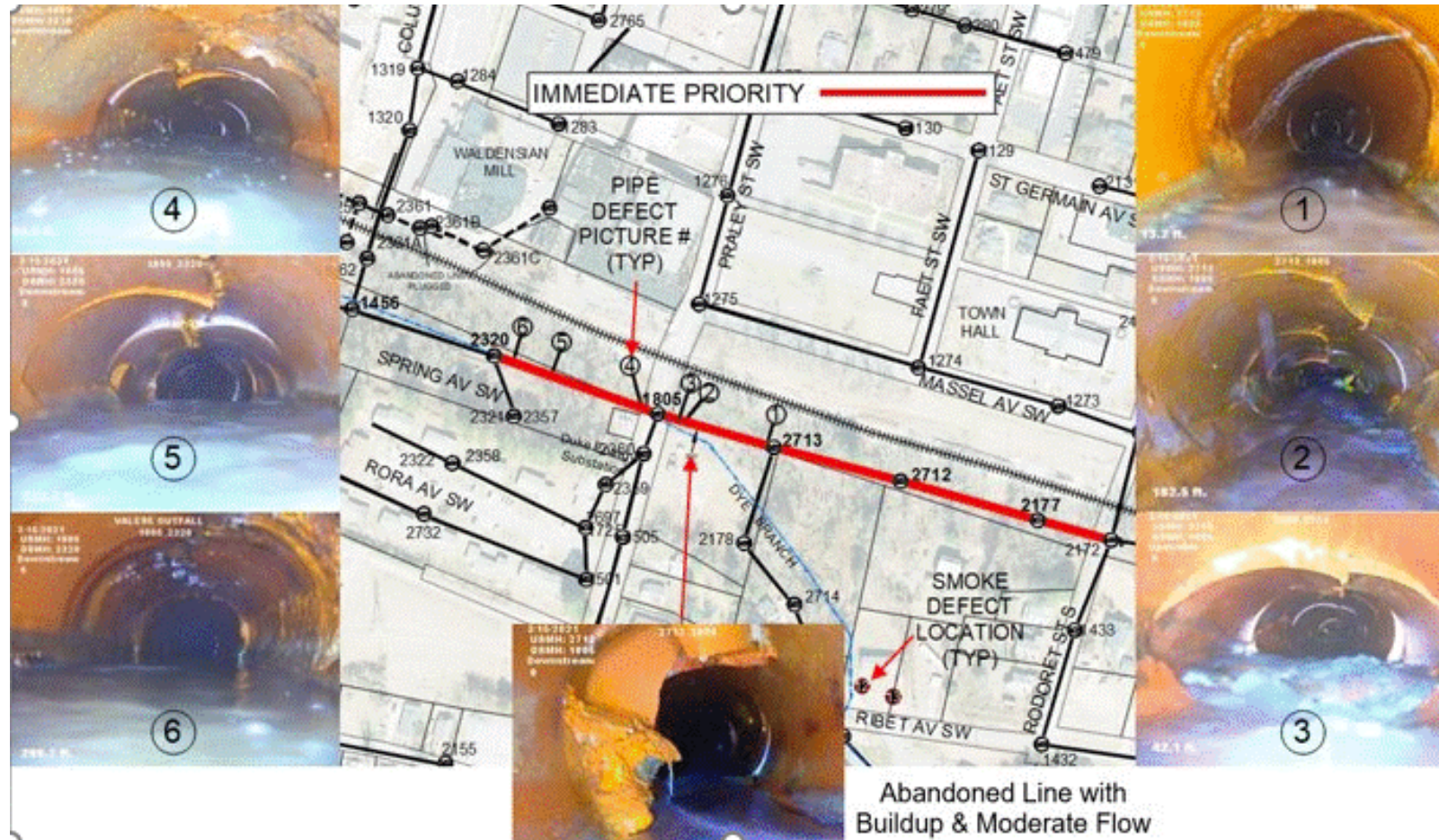
Yes

☒

No

☐





COUNCIL AGENDA MEMO

To: Town Clerk
From: Greg Padgett, Public Services Director
Date: April 4, 2022
Re: Engineering Contract Valdese Bluffs

REQUEST

Appropriations of funds to use McGill Associates for Valdese Bluffs water/sewer design.

BACKGROUND

The 2021 American Rescue Plan (ARP) provides funds, through the State Fiscal Recovery Fund, that the NC General Assembly allocated as 100% grants. The Town of Valdese received a grant in the amount of \$801,983 for the extension of water and wastewater service to the Valdese Bluffs Development. We have Representative Hugh Blackwell to thank for getting these dollars allocated to Valdese.

RECOMMENDATION

Staff recommends that council enter into a contract with McGill Associates to design the water and sewer extension to make those utilities available to the proposed Valdese Bluffs multi-use development.

BUDGET ANALYSIS:***Budgetary Action***

Is a project ordinance required?

Yes

☒

No

☐

AGREEMENT FOR ENGINEERING SERVICES

This AGREEMENT, made and entered into this the ____ day of _____ 2022, by and between **Town of Valdese** (OWNER) and **McGill Associates, P.A.** (ENGINEER).

WHEREAS, the OWNER proposes to do certain work toward the accomplishment of the Project entitled **Valdese Bluffs Water and Sewer Extension Project** as generally described in Attachment "A", and

WHEREAS, the ENGINEER desires to render professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein, it is hereby mutually understood and agreed as follows:

SECTION 1 - GENERAL SERVICES

The ENGINEER shall:

- 1.1 The ENGINEER shall, as directed by the OWNER, provide professional engineering services for the OWNER in all phases of the Project; serve as OWNER's professional engineering representative for the Project; and shall give professional consultation and advice to OWNER during the performance of the services hereunder. The ENGINEER shall designate a representative to be the central point of contact with the OWNER during execution of the work included herein.
- 1.2 The ENGINEER shall provide all personnel required in performing the Project unless otherwise provided herein. Such personnel shall not be employees of or have any contractual relationship with the OWNER. All services rendered hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the Project shall be fully qualified under North Carolina law to perform such services. None of the services covered by this Agreement shall be subcontracted without the prior approval of the OWNER.
- 1.3 The ENGINEER shall assist in the pursuit of obtaining, approvals and permits from all governmental authorities having jurisdiction over the Project, unless otherwise agreed to herein.
- 1.4 The ENGINEER shall seek and obtain authorization from the OWNER or the OWNER's assignee before proceeding with the Project, or before performing any Additional Services as described in Section 3, or before performing any other services which would not be included in the fee for Basic Services set forth in Section 6 hereof, subject to OWNER's right to terminate as herein provided.
- 1.5 The ENGINEER shall comply with all existing federal, state and local laws and regulations regarding equal employment opportunity. The ENGINEER is further obligated to include all requirements hereunder in any subcontract written by him in association with this Agreement.

SECTION 2 - BASIC SERVICES

2.1 PLANNING AND DESIGN PHASE

- 2.1.1 Consult with the OWNER to fully determine the OWNER's requirements for the project and to discuss the possible phasing, coordination, approvals and other preliminary matters.
- 2.1.2 Coordinate and conduct initial coordination meeting with the OWNER as needed to establish communication lines, review project schedules and gather data and information from the OWNER.
- 2.1.3 Complete a topographical survey of the project area to develop construction documents.
- 2.1.4 Coordinate the provision of subsurface investigation by others, including assisting with solicitations and preparing site maps identifying locations for testing.
- 2.1.5 Prepare a preliminary layout for review with the Owner for concurrence and acceptance.
- 2.1.6 Prepare complete bid documents, contract documents, technical specifications and construction drawings to detail the character and scope of the work of the Project.
- 2.1.7 Review design documents described above with the OWNER for comments and approval.
- 2.1.8 Prepare and submit plans and specifications to NCDEQ Division of Water Infrastructure to assist in obtaining the funding approval.
- 2.1.9 Prepare and submit permit application and supporting documents to NCDEQ Division of Water Resources (Water Quality Section), NCDEQ Division of Water Resources (Public Water Supply Section), and NC DEMRL Land Quality Section to assist in obtaining the construction approvals.
- 2.1.10 Perform an internal quality control and constructability review of the project.
- 2.1.11 Prepare an updated opinion of probable cost upon completion of the final design plans, and advise the OWNER of any adjustment of the Project cost caused by changes in scope, design requirements or construction costs.
- 2.1.12 Furnish one (1) hard copy and one (1) electronic PDF copy of the final design documents to the OWNER.

- 2.1.13 Assist the OWNER with outreach to Disadvantaged Business Enterprise (DBE) contractors in accordance with SB 914.
- 2.1.14 Assist the OWNER in advertising, receiving, opening and evaluating bids.
- 2.1.15 Schedule a Pre-Bid Conference with the all prospective bidders and the OWNER to address any bidding questions.
- 2.1.16 Consult with, and advise the OWNER as to the acceptability of contractors and subcontractors and make recommendations as to the lowest, responsive, responsible bidder.
- 2.1.17 Coordinate funding, DBE, and award documentation with DWI.
- 2.1.18 Assist the OWNER in the final preparation and execution of construction contracts and in checking Performance and Payment Bonds and Insurance Certificates for compliance.
- 2.1.19 Schedule a Pre-Construction Conference with the OWNER, Contractor, ENGINEER and all other applicable parties to assure discussion of all matters related to the Project. Prepare and distribute minutes of the Pre-Construction Conference to all parties.

SECTION 3 - ADDITIONAL SERVICES

If authorized by the OWNER, the ENGINEER will furnish or obtain from others additional services of the following types, which are not considered Basic Services under this Agreement.

- 3.1 Additional services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction. The ENGINEER and OWNER agree that time is of the essence in order to meet funding deadlines. As such, the OWNER may initiate minor changes in the project scope to be incorporated by the ENGINEER, subsequent to the permit submittals, as not to impede progress toward the funding application deadlines. No work on any such changes shall occur by the ENGINEER unless preapproved by the OWNER.
- 3.2 Revising previously approved studies, reports, design documents, drawings or specifications, when such revisions are due to causes beyond the control of the ENGINEER.
- 3.3 Preparing and submitting permit applications or other documents to any agency or entity except for NCDWR and NCDEQ-PWSS as listed in Section 2.
- 3.4 Preparing design documents, calculations, design plans, or technical specifications for a sewer pump station in the event that gravity sewer extension is deemed infeasible.
- 3.5 Preparing documents for alternate bids, phasing of construction, or multiple contracts requested by the OWNER for work, which is not executed, or documents for out-of-sequence work other than agreed upon in the Design Phase.
- 3.6 Value engineering and negotiation with the lowest responsive, responsible bidder, in an effort to reduce the project's construction cost.
- 3.7 Preparation of easement maps or supporting documents for either the water or sewer system extensions.
- 3.8 Construction phase services, as requested, will be provided as part of an amendment to this contract.
- 3.9 Providing geotechnical and subsurface investigations, archeological surveys and any other environmental site surveys necessary for the construction of the project.
- 3.10 Preparing to serve or serving as a witness for the OWNER in any litigation, condemnation or other legal or administrative proceeding involving the Project.
- 3.11 Additional services in connection with the Project, including services normally furnished by OWNER and services not otherwise included in this Agreement.
- 3.12 Additional services in connection with administering project funding.

SECTION 4 - OWNERS RESPONSIBILITIES

The OWNER shall:

- 4.1 Provide full information as to the requirements for the Project. Assist the ENGINEER by placing at his disposal in a timely manner all available information pertinent to the Project including previous documents and any other data relative to the evaluation, design, and construction of the Project.
- 4.2 Designate a person to act as OWNER's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions pertinent to the services in this Agreement.
- 4.3 Guarantee access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform his services under this Agreement.
- 4.4 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the ENGINEER and render decisions and comments pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.
- 4.5 Obtain any right-of-way easements from public bodies, entities or persons necessary for satisfactory construction of the Project.
- 4.6 Obtain any subsurface geotechnical investigations or other types of testing and analysis needed for the Project.
- 4.7 Pay for permit fees, and all costs incidental to advertising for bids, and receiving bids or proposals from licensed Contractors.
- 4.8 Provide such legal, accounting and insurance counseling services as may be required for the Project, and such auditing services as may be required to ascertain how or for what purpose any Contractor will or has used the monies paid to him under the construction contract.
- 4.9 Give prompt notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project.
- 4.10 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, subject to the obligations of the ENGINEER outlined in this Agreement.
- 4.11 Furnish, or direct the ENGINEER to provide necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.
- 4.12 Bear all costs incident to compliance with the requirements of this Section 4, except where Contractor will assume responsibility for the same.

SECTION 5 - PERIOD OF SERVICES

- 5.1 Unless this Agreement has been terminated as provided in paragraph 7.1, the ENGINEER will be obligated to render services hereunder for a period, which may reasonably be required for the services described herein. The ENGINEER may decline to render further services hereunder if the OWNER fails to give prompt approval of the various phases as outlined. Upon receiving a written authorization to proceed, the ENGINEER shall endeavor to achieve the milestones issued by the Division of Water Infrastructure .
- 5.2 If the Project is delayed significantly for reasons beyond the ENGINEER's control, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation.

SECTION 6 - PAYMENT TO THE ENGINEER

6.1 PAYMENT FOR BASIC SERVICES

- 6.1.1 The OWNER agrees to pay the ENGINEER for Basic Services as outlined in Section 2 the following lump sum fees, inclusive of all reimbursable expenditures.

Sewer Planning Phase Services	\$56,455
Sewer Design Phase Services	\$44,110
Water Planning Phase Services	\$6,015
Water Design Phase Services	\$6,200
<hr/>	
Total Lump Sum Fee	\$112,780

6.2 PAYMENT FOR ADDITIONAL SERVICES

- 6.2.1 The OWNER will pay the ENGINEER for Additional Services as outlined in Section 3 an amount based on actual time spent and expenses incurred by principals and employees of the ENGINEER assigned to the Project in accordance with the attached ENGINEER's standard rate and fee schedule Attachment "B", which is subject to update on an annual basis.

6.3 TIMES OF PAYMENT

- 6.3.1 The OWNER will make prompt monthly payments in response to the ENGINEER's monthly statements for services rendered under this Agreement.

6.4 GENERAL

- 6.4.1 If the OWNER fails to make any payment due the ENGINEER on account of his services and expenses within sixty days after receipt of the ENGINEER's bill therefor, the ENGINEER may, after giving seven days written notice to the OWNER, suspend services under this Agreement until he has been paid in full all amounts due him on account of his services and expenses.
- 6.4.2 If the Agreement is terminated at the completion of any phase of the Basic Services called for under Section 2, progress payment to be made to the ENGINEER on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Basic Services, the ENGINEER shall be paid for services rendered on the basis of a reasonable estimate of the portion of such phase completed prior to termination. In the event of any termination, the ENGINEER will be paid for all his reasonable expenses resulting from such termination, and for any unpaid reimbursable expenses.
- 6.4.3 If, prior to termination of this Agreement, any work designed or specified by the ENGINEER, under Section 2, is suspended in whole or in part for more than three months or is abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed prior to receipt of such notice from the OWNER as provided in paragraph 6.4.2 for termination during any phase of service.

SECTION 7 - GENERAL CONDITIONS

7.1 TERMINATION

- 7.1.1 In the event that the OWNER finds that it is inadvisable or impossible to continue the execution of the Project; or if the ENGINEER shall fail to fulfill in a timely and proper manner his obligations under this Agreement; or, if the ENGINEER shall violate any of the covenants, agreements, or stipulations of this Agreement; or if the services called for in this Agreement are not completed within the time period specified under Section 5, or if the ENGINEER becomes subject to a voluntary or involuntary adjudication of bankruptcy or makes a general assignment for the benefit of creditors; then the OWNER has the right to terminate at any time this Agreement or any task or phase of work being performed herein by providing fifteen (15) days written notice to the ENGINEER of such termination and specifying the effective date of such termination; provided, however, that during such period of fifteen (15) days the ENGINEER shall have the opportunity to remedy such failures or violations to avoid such termination.
- 7.1.2 In the event of termination, as provided herein, the ENGINEER shall be paid for all services performed and actual expenses incurred up to the date of termination pursuant to Section 6.4.2 herein.

7.2 OWNERSHIP OF DOCUMENTS

- 7.2.1 All documents, including original drawings, estimates, specifications, field notes and data are and remain the property of the ENGINEER as instruments of service. After the ENGINEER has been paid in full, the OWNER shall be provided a set of reproducible record prints of drawings, and copies of other documents, in consideration of which the OWNER will use them solely in connection with the Project, and not for resale. Re-use for extension of the Project, or for new projects shall require written permission of the ENGINEER, which permission shall not be unreasonably withheld, and shall entitle him to further reasonable compensation at a rate to be agreed upon by OWNER and ENGINEER at the time of such re-use.

7.3 OPINIONS OF PROBABLE COSTS

- 7.3.1 Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the opinions of probable costs for the Project provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids or the Project construction cost will not vary from opinions of probable costs prepared by him.
- 7.3.2 If the lowest bona fide proposal or bid exceeds the established Project construction cost limit, the OWNER will (1) give written approval to increase such cost limit, or (2) authorize negotiating or rebidding the project within a reasonable time. The providing of such service shall be the limit of the ENGINEER's responsibility in this

regard and having done so, the ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

7.4 INSURANCE AND CLAIMS

- 7.4.1 The ENGINEER shall provide and maintain, at its own expense, during the term of this Agreement the following insurance covering its operations. Such insurance shall be provided by Insurer(s) satisfactory to the OWNER, and evidence of such insurance in the form of an industry-standard ACORD Certificate of Insurance satisfactory to the OWNER shall be delivered to the OWNER on or before the effective date of this Agreement. Such evidence shall specifically identify this Agreement and shall require that the OWNER be given written notice at least thirty (30) days in advance of any modification or termination of any insurance coverage.
- 7.4.2 AUTOMOBILE LIABILITY – Bodily injury and property damage liability insurance shall be carried covering all owned, non-owned, and hired automobiles for a limit of not less than \$1,000,000 Combined Single Limit for bodily injury and property damage in any one occurrence.
- 7.4.3 COMMERCIAL GENERAL LIABILITY – Bodily injury and property damage liability shall be carried to protect the ENGINEER performing work under this Agreement from claims of bodily injury or property damage which arise from operation of this agreement, whether such operations are performed by ENGINEER or anyone directly or indirectly working for or on ENGINEER'S behalf. The amounts of such insurance shall not be less than \$1,000,000 Combined Single Limit for bodily injury and property damage in any one occurrence with an aggregate limit of \$2,000,000. This insurance shall include coverage for product / completed operations liability, personal and advertising injury liability, and contractual liability.
- 7.4.4 PROFESSIONAL LIABILITY – Insuring against professional negligence / errors and omissions on a claims-made basis with policy limits of \$2,000,000 per claim / \$2,000,000 annual aggregate.
- 7.4.5 WORKERS' COMPENSATION – Workers' Compensation Insurance coverage shall be carried meeting the statutory requirements of the State of North Carolina, even if the ENGINEER is not required by law to maintain such insurance. Said Workers' Compensation Insurance coverage shall have at least the following limits of Employer's Liability coverage - \$500,000 per accident limit, \$500,000 disease per policy limit, \$500,000 disease each employee limit.
- 7.4.6 EXCESS / UMBRELLA LIABILITY – Excess or Umbrella Liability coverage shall be carried providing coverage above the above stated limits of Automobile Liability, Commercial General Liability, and Workers' Compensation (Employer's Liability) in an amount of not less than \$3,000,000 Combined Single Limit for bodily injury and property damage in any one occurrence with an aggregate limit of \$3,000,000.

- 7.4.7 ENGINEER's total liability, in the aggregate, of ENGINEER and ENGINEER's officers, directors, members, partners, agents, employees, and sub-consultants, to the OWNER and to anyone claiming by, through, or under OWNER for any and all claims, losses, cost, or damages whatsoever arising out of, resulting from, or in any way related to the Project, this Agreement, or ENGINEER's performance, from any cause including but not limited to negligence, professional errors or omissions, strict liability, breach of contract, or indemnity, shall not exceed the total insurance proceeds paid on behalf of or to ENGINEER by ENGINEER's insurers in settlement or satisfaction of claims under the terms and conditions of ENGINEER's insurance policies applicable thereto.

7.5 SUCCESSORS AND ASSIGNS

The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER will assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

7.6 INDEMNIFICATION


OWNER agrees to indemnify, defend and hold ENGINEER, its owners, agents, employees, officers, directors and subcontractors harmless from any and all claims, and costs brought against ENGINEER which arise in whole or in part out of the failure by the OWNER to promptly and completely perform its obligations under this agreement, and as assigned in the Exhibit "Scope of Services" and any Additional Services or from the inaccuracy or incompleteness of information supplied by the OWNER and reasonably relied upon by ENGINEER in performing its duties or for unauthorized use of the deliverables generated by ENGINEER.

7.6 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented or modified by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

McGILL ASSOCIATES, P.A.

By: 

Douglas Chapman, PE
Principal - Hickory Office Manager

(SEAL)

TOWN OF VALDESE

ATTEST: _____
Jessica Lail
Clerk

By: _____
Seth Eckard
Town Manager

PRE-AUDIT CERTIFICATION:

THIS INSTRUMENT has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act as amended.

By: _____
Bo Weichel
Finance Director

ATTACHMENT “A”
PROJECT UNDERSTANDING
MAIN STREET WATER AND SEWER LINE REPLACEMENTS

The 2021 American Rescue Plan (ARP) provides funds, through the State Fiscal Recovery Fund, that the NC General Assembly allocated as 100% grants. The Town of Valdese received a grant in the amount of \$801,983 for the extension of water and wastewater service to the Valdese Bluffs Development.

The project includes the extension of an existing 12-inch water main in the project area for a length of approximately 725 LF with ductile iron pipe (DIP). The project also includes the extension of approximately 1,985 LF of 12-inch gravity sewer lines, aerial pier supports and associated manholes and new precast concrete manholes. Sanitary sewer pipe will be long-span ductile iron type where necessary for aerial spans and as required by depth. The water main and gravity sewer extensions shall be configured to coordinate with utility plans provided by the Developer's Engineer within the proposed subdivision site near Lovelady Road and Lake Rhodhiss.

ATTACHMENT “B” STANDARD RATE AND FEE SCHEDULE

PROFESSIONAL FEES	I	II	III	IV
Senior Principal	\$255			
Principal – Regional Manager – Director	\$210	\$220	\$235	\$245
Practice Area Lead	\$180	\$200	\$215	\$225
Senior Project Manager	\$190	\$210	\$215	\$220
Project Manager	\$165	\$180	\$185	\$190
Project Engineer	\$130	\$140	\$150	\$160
Engineering Associate	\$110	\$115	\$120	\$125
Planner- Consultant – Designer	\$110	\$125	\$145	\$160
Engineering Technician	\$100	\$115	\$125	\$135
CAD Operator – GIS Analyst	\$85	\$90	\$100	\$105
Construction Services Manager	\$140	\$155	\$165	\$180
Construction Administrator	\$105	\$120	\$130	\$135
Financial Services Manager	\$135	\$145	\$155	\$165
Grant Administrator	\$115	\$130	\$145	\$155
Construction Field Representative	\$90	\$100	\$105	\$110
Environmental Specialist	\$90	\$100	\$105	\$110
Surveyor	\$95	\$110	\$120	\$125
Surveying Associate	\$75	\$80	\$85	\$90
Survey Technician	\$80	\$85	\$90	\$95
Survey Field Technician	\$70	\$75	\$80	\$85
Administrative Assistant	\$75	\$80	\$90	\$100

1. EXPENSES

- a. Mileage - \$0.65/mile
- b. Robotics/GPS Equipment - \$25/hr.
- c. Survey Drone - \$100/hr.
- d. Telephone, reproduction, postage, lodging, and other incidentals shall be a direct charge per receipt.

2. ASSOCIATED SERVICES -

- a. Associated services required by the project such as soil analysis, materials testing, etc., shall be at cost plus fifteen (15) percent.

COUNCIL AGENDA MEMO

To: Town Clerk
From: Greg Padgett, Public Services Director
Date: April 4, 2022
Re: Pavement Condition Survey

REQUEST

Appropriations of funds for the hiring of a firm to do a new Pavement Condition Survey (PCS)

BACKGROUND

The last paving assessment for the Town of Valdese was performed in 2015. The Federal Highway Administration (FHWA) recommends doing a pavement assessment every 3-5 years. This will be a tool used to establish a plan to pave the roads of Valdese.

RECOMMENDATION

Staff recommends J.M. Teague perform a Pavement Condition Survey (PCS). J.M. Teague has done work for Valdese in the past and provided numerous references, as did the other firms. The total estimated cost is \$14,300, including a final presentation to Town Council at the conclusion of the PCS. If it is Councils' pleasure, staff would also like to consider commissioning J.M. Teague to perform a sidewalk assessment at the same time as the Pavement Condition Survey is being performed. This would be an additional cost, to be determined, if council has an interest in requesting the additional work.

BUDGET ANALYSIS:***Budgetary Action***

Is a Budget Amendment required?

Yes

☒

No

☐



1155 N. Main Street
Waynesville, NC 28786
(P) 828.456.8383
(F) 828.456.8797
www.jmteagueengineering.com

January 28, 2022

Greg Padgett – Director of Public Works
Town of Valdese
P.O. Box 339 Valdese
Valdese, NC 28690

JMTE Submission: Valdese Pavement Condition Assessment (WAYN 1255)

Dear Mr. Padgett,

J.M. Teague Engineering and Planning (JMTE) is excited to help the Town of Valdese better serve residents while keeping costs down. We look forward to demonstrating our professionalism, experience, and client focus in person and on the ground. Understanding pavement condition is the key to effective pavement management.

JMTE is registered with the NC Office of the Secretary of State and with the NC Board of Examiners for Engineers and Surveyors. We are a Small Professional Services Firm and received our most recent prequalification renewal letter from NCDOT on December 31, 2020. Of particular importance to this assignment is NCDOT Prequalification in Work Code 00150 – Pavement Condition Surveys.

Why Select JMTE for this important assignment:

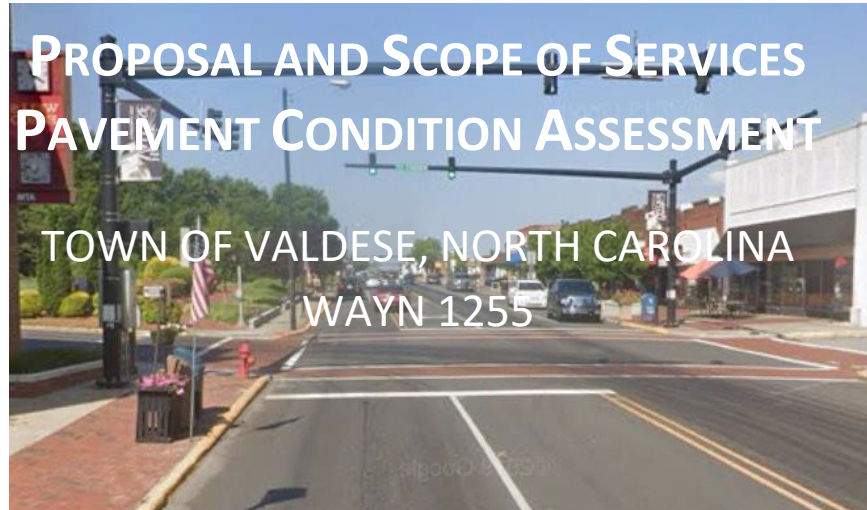
- We focus on small to medium-sized municipalities, like the Town of Valdese,
- You will collaborate with our owner and senior engineers,
- Our Project Manager, David Hyder, PE was a Highway Maintenance Engineer and completed, or supervised many pavement condition surveys,
- JMTE is a specialty/boutique transportation engineering and planning firm only pursuing projects we do well, like this Pavement Condition Assessment,
- Our size, flexibility, and responsiveness measurably enhance project delivery and client satisfaction,
- Our proactive project management and delivery process is time tested,
- “Safety” is at the heart of everything we do, and
- Our passion is to be your trusted advisor for transportation projects.

JMTE has a long positive relationship with the Town of Valdese. While at the NCDOT, Mark Teague collaborated with the Town on dozens of projects. Since then, JMTE has completed many projects for Valdese including intersection safety studies, traffic signal warrant studies, access management studies, *Manual of Uniform Traffic Control Devices* Training, and a town-wide sign inventory and assessment. Thank you for your thoughtful consideration of JMTE for the Pavement Condition Assessment.

Respectfully Submitted,
J.M. Teague Engineering, PLLC

A handwritten signature in black ink that reads 'David W. Hyder'.

David Hyder, PE, CPM
Engineering Director
Attachments



Prepared For:

Greg Padgett, Director of Public Works

P.O. Box 339 Valdese

NC 28690

gpadgett@valdesenc.gov

January 2022

Prepared By:

David W. Hyder, PE, Engineering Director

J.M. Teague Engineering & Planning

david@jmteagueengineering.com

828.456.8383

PROJECT BACKGROUND AND UNDERSTANDING

J.M. Teague Engineering and Planning (JMTE) understands that the Town of Valdese, North Carolina is requesting a proposal outlining a scope of services for a pavement condition assessment of all Town-owned public roadways within the Valdese Town Limits -approximately 35.7 miles of roadway as of January 2021. The purpose of this study is to assist the Town of Valdese to effectively and efficiently maintain paved streets and roads in the Town limits and make better use of limited local and state maintenance funds.

SCOPE OF WORK

Before starting work, JMTE will meet with the Town of Valdese (Town) representatives to discuss the full extent of the project and to refine the project scope to ensure a clear understanding of the Town's needs and expectations. During this meeting, previous pavement data and any unique aspects of the project will be discussed.



After the telephone meeting, JMTE will develop a customized data collection plan to ensure that the comprehensive roadway review meets all Town expectations. JMTE will also develop a communication plan and timeline to ensure that all project deadlines are met.

Valdese will provide existing centerline data and *SHP* files for JMTE's use during the pavement condition survey.

JMTE will use these files to develop a detailed GPS data dictionary to be used with Trimble hardware by the JMTE team during the field assessment. JMTE will correct missing or inaccurate GIS data as part of the survey.

Over a period of days, the JMTE team will perform a thorough pavement condition assessment. JMTE will conduct this assessment in a manner comparable to the standard North Carolina Department of Transportation (NCDOT) pavement condition assessment and will result in a Pavement Condition Index (PCI) rating score for each segment of roadway. This rating will be based on eight (8) factors: Pattern cracking (Alligator, Block, Reflective), Transverse cracking, Longitudinal Stress, Rutting, Raveling, Bleeding, Patching, and Ride Quality.

When a pavement distress is located and identified, the section of roadway will be photographed and the primary type of distress, its distress rating, and geospatial location will be recorded using Trimble hardware and a customized datasheet. JMTE will also note obvious instances in which subsurface conditions are affecting pavement condition (e.g., collapsing

drainage pipes or leaking water lines). However, this scope does not include inspecting culverts, drainage systems, or water supply lines.

The primary and secondary road crossings and the directional side of the street will be used to further identify the location of the recorded distress. Each rated section of roadway will align with previous centerline and pavement condition data, and each segment will begin and end at natural and logical points that can easily be identified in the field (such as intersections, bridges, utility features, or other landmarks). The pavement distress data will be used to calculate a PCI for each segment of roadway.

The JMTE team will also note details such as utility cuts, speed humps/speed tables, drainage issues and other safety issues within the public right-of-way. All additional details will be recorded via geospatial location and be specific to side of road. JMTE understands that these additional details will not affect the PCI calculation.

JMTE understands that the Town may identify sections of roadway for additional consideration during the pavement condition survey. JMTE and Valdese will agree upon any additional fee for the additional work based upon the standard hourly rates shown on page 5 of this Scope of Services.

PROJECT DELIVERY

The JMTE team will compile all roadway PCI data into a final report and priority schedule that will identify the pavement condition by major distress and street classification. Considerations for paving priority will include calculated rating, street type, and typical vehicle use. This report will provide the Town with recommended maintenance activities to strategically replace, perform maintenance on, or preserve pavements in a manner consistent with budgetary constraints, driver safety, and NCDOT (Powell Bill) compliance.

JMTE will carefully consider the PCI ratings and other roadway condition data to calculate a current year estimate and implementation strategy. JMTE believes in the 3Rs of pavement maintenance: the right treatment, on the right road, at the right time will maximize benefit of every paving dollar the Town spends.

Recommendations for Federal Highway Administration (FHWA) and NCDOT approved asphalt maintenance activities such as Milling, Grinding, Resurfacing, Sealing, Overlays, or Patching will be cost estimated by treatment type. These costs will be accompanied by a customized prioritization strategy for implementation of ongoing pavement rehabilitation.

The assessment results - including location, pavement condition score, photographs, special notes, and recommended treatment to maximize pavement life - will be presented to the Town

JMTE Project #: WAYN 1255

January 2022

Client Initials: _____



in an engineering report (1-digital copy, 1-printed copy). All geospatial data developed during the assessment will be shared with the Town digitally as SHP files for use by Town staff.

QUALITY ASSURANCE AND QUALITY CONTROL

JMTE recognizes that the disciplines of quality, health and safety, and environmental management are integral parts of its management function. The successful delivery of an engineering, planning or JMTE Academy training project involves having in place adopted quality assurance and control processes and procedures. These processes and procedures govern not only the health and safety of our employees and our environmental responsibility - they also govern our best practices from project pursuit through project execution and measuring client satisfaction. JMTE believes that our professional services and project deliverables must meet or exceed our client's expectations, the first time every time, and reflect and advance our company's mission. We look forward to sharing and demonstrating our passion for quality with the Town of Valdese.

FEE STRUCTURE

JMTE estimates that the professional fees for the proposed work will be \$13,100 and include a pavement condition survey and report. The Client may add an optional presentation to Town Council at a cost of \$1,200.

JMTE developed the estimate for this contract using an approximation of person-hours need to perform the needed work. Table 1 shows JMTE's professional fees scale. Occasionally, JMTE may shift project tasks among staff to efficiently complete the proposed work. This table is intended to provide transparency to our clients. If the Town of Valdese changes the project scope or its parameters anytime during the project, additional fees may be required. JMTE will provide the client with a quote of anticipated fee changes before performing any additional work.

JMTE will submit invoices according to the following schedule:

- | | |
|---|----------|
| <input type="checkbox"/> Completion of Field Work | \$6,550 |
| <input type="checkbox"/> Final Report Submitted | \$6,550. |

If the Client desires, JMTE will make a presentation to Town Council

- | | |
|--|---------|
| <input type="checkbox"/> Council Presentation (Optional) Upon Completion | \$1,200 |
|--|---------|

JMTE will submit regular invoices to the client for services performed and expenses incurred the previous month. If JMTE has not delivered the final product upon the invoicing date, the invoice will reflect a percent complete, tasks complete, hours worked so far, or similar

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denotation. A final invoice will accompany the final product delivery and will be denoted as such. Payment of each invoice will be due within 30 days of receipt. Interest at the rate of 1.5% monthly will be added to accounts not paid within 30 days. If the client fails to make any payment due to JMTE for services and expenses within 45 days after JMTE's transmittal of its invoice, services may be suspended until all outstanding amounts are paid in full.

If this proposal is acceptable, please advise and a contract will be prepared for execution. Project delivery time will begin on the executed contract date. If work needs to begin prior to the contract execution, a written notice to proceed will suffice as an interim agreement until a contract can be formally executed. JMTE anticipates completion of this project within 60 business days from notice to proceed.

Table 1: JMTE Hourly Rates

Job Title	Standard Rates
Administrative Assistant	\$ 30
Assistant Office Manager	\$ 30
Client Relations Manager	\$ 125
Community Planner	\$115
Engineer PE	\$140
Engineering Director	\$150
Engineering Technician	\$ 75
Executive Assistant	\$ 60
Planning Technician	\$ 75
Principal Engineer	\$175
Sr. Transportation Planner	\$135
Transportation Planner	\$105

The terms, fees, and conditions are valid for 60 business days from the date of this proposal.

ADDITIONAL SERVICES

Upon request, there are several additional services that can be added during the Town's pavement condition assessment (at additional cost):

- Inventory of existing curb and gutter along Town-owned roadways,
- Curb and gutter condition ratings, including extent of asphalt above the gutter by location for milling requirements prior to roadway resurfacing,
- Inventory of existing sidewalk along Town-owned roadways,
- Sidewalk condition ratings based on specific distress type,
- Sign inventory, and
- Americans with Disabilities Act (ADA) Compliance for sidewalks and parking lots.

STAFF QUALIFICATIONS

JMTE has performed many pavement condition surveys since our organization in 2010. Each member of our staff has participated in at least two pavement condition surveys, performed the analysis and written the reports. One of the first tasks for new employees is training as NCDOT approved flaggers and in pavement condition surveys.

JMTE Project #: WAYN 1255

January 2022

Client Initials: _____



MARK TEAGUE, P.E. OWNER AND PRINCIPAL ENGINEER

- Town of Maiden Pavement Condition Survey
- Town of Dobson Pavement Condition Survey
- Town of Rutherfordton Pavement Condition Survey

DAVID HYDER, P.E. ENGINEERING DIRECTOR

As a former NCDOT Highway Maintenance Engineer David is familiar with pavement condition surveys, roadway maintenance, and the causes of pavement failures. David also leads the initial training for our data collection teams and assesses the pavement analysis

- Town of Burnsville Pavement Condition Survey,
- City of Marion Pavement Condition Survey,
- Town of Rutherfordton Pavement Condition Survey
- NCDOT Rutherford County (x2) Pavement Condition Survey 1000 miles

CANDACE HLADICK TRANSPORTATION PLANNER

Candace is our GIS lead. She prepares mapping for our pavement condition surveys and ensures that the pavement maps match your Powell Bill Maps. She also may perform field data collection for pavement condition surveys.

- Town of Burnsville Pavement Condition Survey,
- City of Marion Pavement Condition Survey
- Town of Granite Falls Pavement Condition Survey
- Town of Maiden Pavement Condition Survey
- Town of Town of Rutherfordton Pavement Condition Survey

TY PARHAM, EI ENGINEER

- Town of Marion Pavement Condition Survey
- Town of Town of Rutherfordton Pavement Condition Survey

MIKE PRINDIVILLE ENGINEERING TECHNICIAN

Relevant Project Experience

- Town of Town of Rutherfordton Pavement Condition Survey
- Town of Burnsville Pavement condition

END OF SCOPE- PROJECT EXAMPLES FOLLOW



Rutherfordton Pavement Condition Survey Update

CLIENT:

Town of Rutherfordton

JMTE SERVICES:

- ✓ Data Collection
- ✓ Cost Estimates
- ✓ Pavement Survey
- ✓ Technical Report
- ✓ Board/Council Meetings
- ✓ Sealed Report

LOCATION:

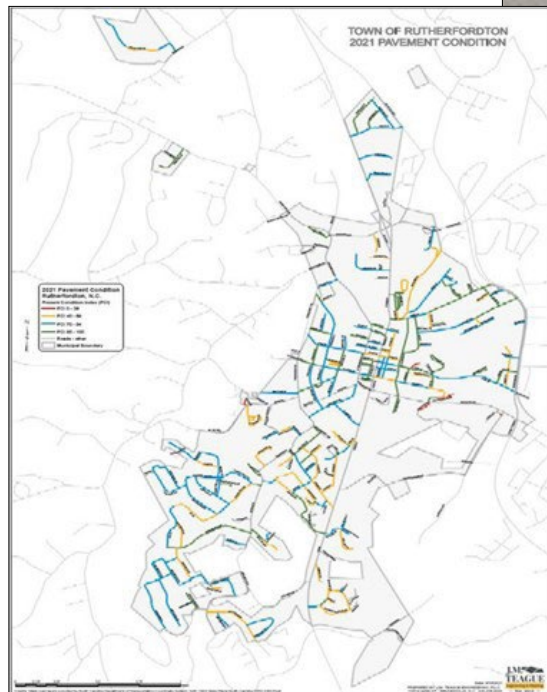
Rutherfordton, NC

J.M. TEAGUE
ENGINEERING
& PLANNING

1155 North Main Street
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J.M. Teague Engineering & Planning (JMTE) performed a pavement condition survey update for the Town of Rutherfordton, NC. Rutherfordton's paved Powell Bill includes 31.93 miles of paved roads. Our rating team drove each paved public street in Rutherfordton and assessed its condition using the North Carolina Department of Transportation's *Pavement Condition Survey Manual*. Using our knowledge of pavement condition, maintenance techniques, and knowledge of local conditions, JMTE was able to evaluate Rutherfordton's streets and suggest money saving options for the Town's consideration. Recommendations were accepted by the Rutherfordton Town Council at the October 2021 council meeting.



Town Of Maiden Pavement Condition Survey

CLIENT:

Town of Maiden

JMTE SERVICES:

- Pavement Condition Rating
- Pavement Costs Estimate
- Maintenance Database
- Recommendations
- Engineering Report

LOCATION:

Maiden, NC

J.M. TEAGUE
ENGINEERING
& PLANNING

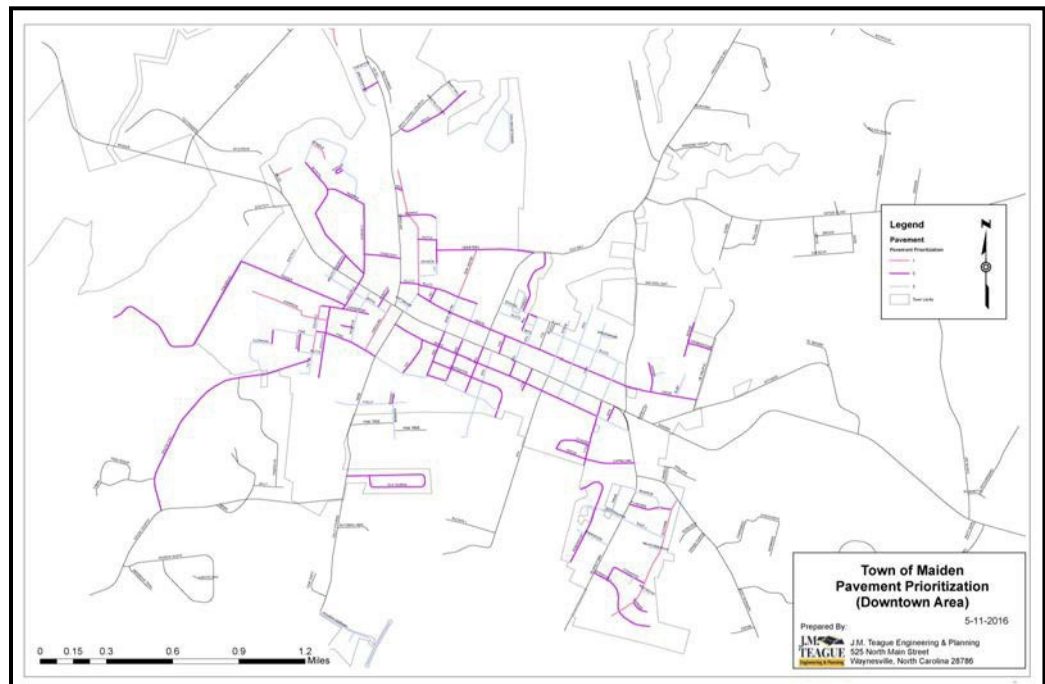
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J.M. Teague Engineering & Planning (JMTE) performed a town wide Pavement Condition Survey encompassing nearly 27 miles of roadway. The purpose of this study was to assist the Town with prioritization of pavement rehabilitation funds.

The assessment was conducted in a similar manner as the standard NCDOT assessment and resulted in a rating score for each street. The rating was based on factors such as pavement aging, cracking, ride-ability, bleeding, and surface type, and was broken down into 0.10 mile increments across the entire street network. Recommendations for paving priority and asphalt type was based on the calculated rating, current traffic volumes, street type, and typical vehicle use.

The completed pavement condition survey was presented to the Town of Maiden in the form of an engineering report and consisted of roadway location, pavement condition score, photographs, special notes, and recommended treatment to maximize pavement life. A current year cost estimate and implementation strategy also accompany each recommendation.



Pavement Condition Survey

CLIENT:

Town of Granite Falls

JMTE SERVICES:

- Pavement Assessment
- Pavement Condition Rating
- Consulting
- Maintenance Database
- Recommendations
- Engineering Report

LOCATION:

Granite Falls, NC

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J.M. Teague Engineering & Planning (JMTE) was asked by the Town of Granite Falls to inspect over 34 miles of paved roads within the town. The inspection rated eight different types of pavement distresses. The ratings were entered into a program similar to the one used by the North Carolina DOT to produce an overall pavement condition rating number for the road inspected. The ratings were tabulated for use in comparison of road conditions to advise on the priority for maintenance surfacing treatments. A short discussion of pavement preservations treatment options was provided.

Special conditions such as severe potholes and road failures were noted, as were non-standard STOP sign placements. Some general observation comments were also given to warn of unusual conditions.

The client expressed an urgency for completion of the survey, and JMTE completed the report several weeks before the contract deadline.



2021 Pavement Condition Survey

for

The Town of Rutherfordton, NC

WAYN 1048

Prepared For:

Doug Barrick, Town Manager
129 N. Main Street
Rutherfordton, NC 28139

Prepared By:

David W. Hyde, P.E. Director of Engineering
J.M. Teague Engineering & Planning
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Pavement Condition Survey for The Town of Rutherfordton, NC



1155 North Main Street
Waynesville, NC 28786
(P) 828-4567-8383

A circular red professional engineer seal for David W. Hyder, P.E., North Carolina, License 13387. The seal is stamped over a blue ink signature of David W. Hyder. Below the signature, the text "David W. Hyder, P.E." is printed. At the bottom of the page, the date "October 28, 2021" is printed.

David W. Hyder, P.E.
October 28, 2021

Revision History

Action	Description	Date
Draft Report to Client		09/17/2021
Final Report to Client		10/28/2021

EXECUTIVE SUMMARY

TOPIC	PAGE(S)
SUMMARY	1-3
<p>This section is a short overview Rutherfordton's street system, its condition, and the work done. Overall, the street system is in good condition; however, there are some streets that need significant repair. Figure 1 shows the pavement condition index (PCI) of each rated segment and the approximate breakpoints for preventative maintenance, corrective maintenance, and reconstruction. Figure 2 is a color-coded map showing the location of each section and its score. Appendix B (page 23) shows the actual rating of each segment.</p>	
TYPES MAINTENANCE	4,5
<p>This section discusses the differences between preventative maintenance, corrective maintenance, reconstruction and emergency maintenance. Figure 3 is a decision tree that can be used to select the treatment for each road segment. Table 1 describes each street that needs reconstruction. Table 1 shows, the worst PCIs first. Table 3 includes NCDOT unit costs for some pavement maintenance tasks.</p>	
PROGRAMMING STRATEGY	10,11
<p>To facilitate decision-making the report discusses some methods of selecting segments for work.</p>	
PAVEMENT PRESERVATION	11
<p>The report discusses the importance of pavement preservation as a tool to better maintain pavement. Residents may object to cost-effective maintenance tools for, in their opinion, good reasons. This section discusses some of those objections and possible responses to them.</p>	
ANALYSIS METHOD	12-14
<p>The NCDOT pavement condition survey method was used to evaluate all town-maintained streets in Marion. Typical distress types are described. Table 5 describes the rating scale for each distress type.</p>	
SPECIFIC CONCERNS	15-24
<p>Table 6 includes photographs and recommended actions for specific pavement issues discovered in the field. Table 6 is alphabetical by street.</p> <p>Table 7 includes photographs and recommended actions for drainage issues discovered in the field. Table 7 is alphabetical by street.</p> <p>Table 8 includes photographs and recommended actions for underground utility issues discovered in the field. Table 8 is alphabetical by street.</p>	

Table 9 includes photographs and recommended actions for signing and marking issues discovered in the field. Table 9 is alphabetical by street. Appendix D includes a standard drawing showing the correct installation location for incorrectly placed stop sign	
APPENDIX A- GLOSSARY OF TERMS	20
Many terms in this report are unfamiliar to residents and decision-makers. This appendix provides definition of some of the more common terms. The glossary is alphabetical for ease of use.	
APPENDIX B- RATING SPREADSHEETS	23
Two copies of the ratings spreadsheets (alphabetical and rank ordered) in Appendix B. The spreadsheets include the street name, the length, the distresses observed and the final rating for each street segment.	
APPENDIX C -PAVEMENT MAINTENANCE ACTIVITIES	35
Appendix C describes some common pavement maintenance activities.	
APPENDIX D – PROPOSED PAVEMENT DESIGNS	37
Appendix D is a decision tree that can be used to help the municipality determine a pavement design for new construction, reconstruction and maintenance of pavement.	
APPENDIX E – EXAMPLE DECISION MAKING PROCESS	39
This example discusses some common factors to consider when developing a pavement decision matrix.	
APPENDIX F-REFERENCES	42
Appendix F is a list of the reference material that forms the basis of this survey and report.	

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INTRODUCTION & BACKGROUND

This report documents the results of J.M. Teague Engineering & Planning's Pavement Condition Survey for the Town of Rutherfordton, North Carolina. The purposes of this report are to:

1. Document the current condition of paved streets in Rutherfordton,
2. Give decision-makers the information they need to maintain the Town's roads effectively and efficiently,
3. Give decision-makers a tool they can use to prioritize work and establish budgets,
4. Provide unit cost information for use in preparing street maintenance budget, and
5. Identify existing maintenance issues that can be easily solved.

This report summarizes the findings of the field work and data analysis. It also discusses additional information discovered during the field work that is not directly related to pavement condition but that may improve town services, lead to timely maintenance work, improve safety, or better use resources.

Rutherfordton's paved Powell Bill includes 31.93 miles of paved roads. Our rating team drove each paved public street in Rutherfordton and assessed its condition using the North Carolina Department of Transportation's *Pavement Condition Survey Manual*. Our team also noted other conditions such as drainage issues, safety issues (e.g., missing or obscured stop signs) and inconsistencies in between the Powell Bill maps and the street signs.

Summary of Pavement Condition

Figure 1 is a graph of the pavement condition index (PCI) of each segment rated. Using ASTM D6433 this report divides pavements into four categories: good (PCI > 85), satisfactory (PCI from 70 to 84), poor (PCI from 40 to 69) and very poor (PCI < 39). Roads rated satisfactory and good need only preventative maintenance to continue good function in the future. Roads with PCIs between 40 and 69 need corrective maintenance. Corrective maintenance (resurfacing) will return poor roads to a good condition; however, corrective maintenance is costly. Finally, roads in the very poor category need complete reconstruction to properly function. The average PCI for the Town's paved roads is 79.2. Overall, Rutherfordton's Street system is in good condition. However, as Figure 1 shows, some roadways need significant repair.

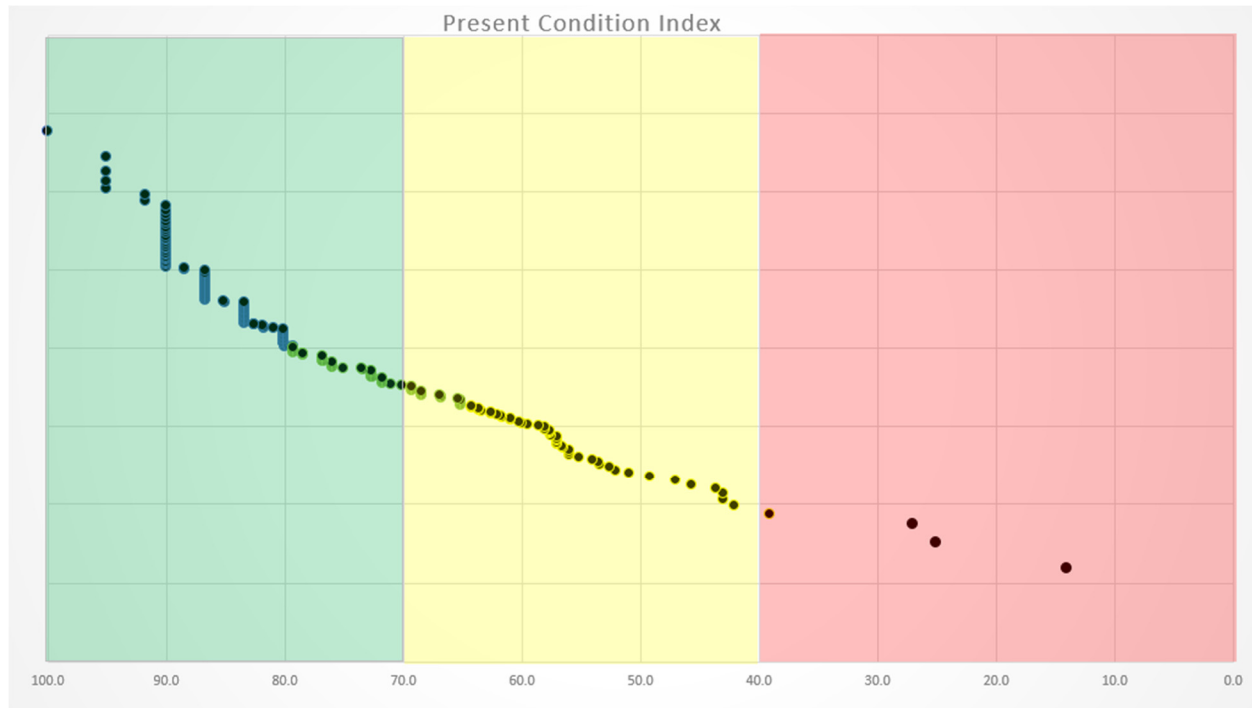


Figure 1 Pavement Condition Index

Figure 2 on the following page is a map showing the pavement condition index of each street in Rutherfordton. Figure 2 uses the same color scheme as Figure 1. The Town of Rutherfordton can use Figure 2 for several purposes. It is a quick guide to streets that need work. Figure 2 can also be used to show residents why some streets are getting repair work. Figure 2 can also be used as a baseline tool for future pavement studies showing the roads before/after maintenance.

The next sections of the report discuss reconstruction, preventative maintenance, and corrective maintenance. Ideally The Town of Rutherfordton would be doing mainly preventative maintenance because preventative maintenance is the most cost-effective approach to maintaining pavement. However, despite everyone's best efforts some pavement will need corrective maintenance or even reconstruction.

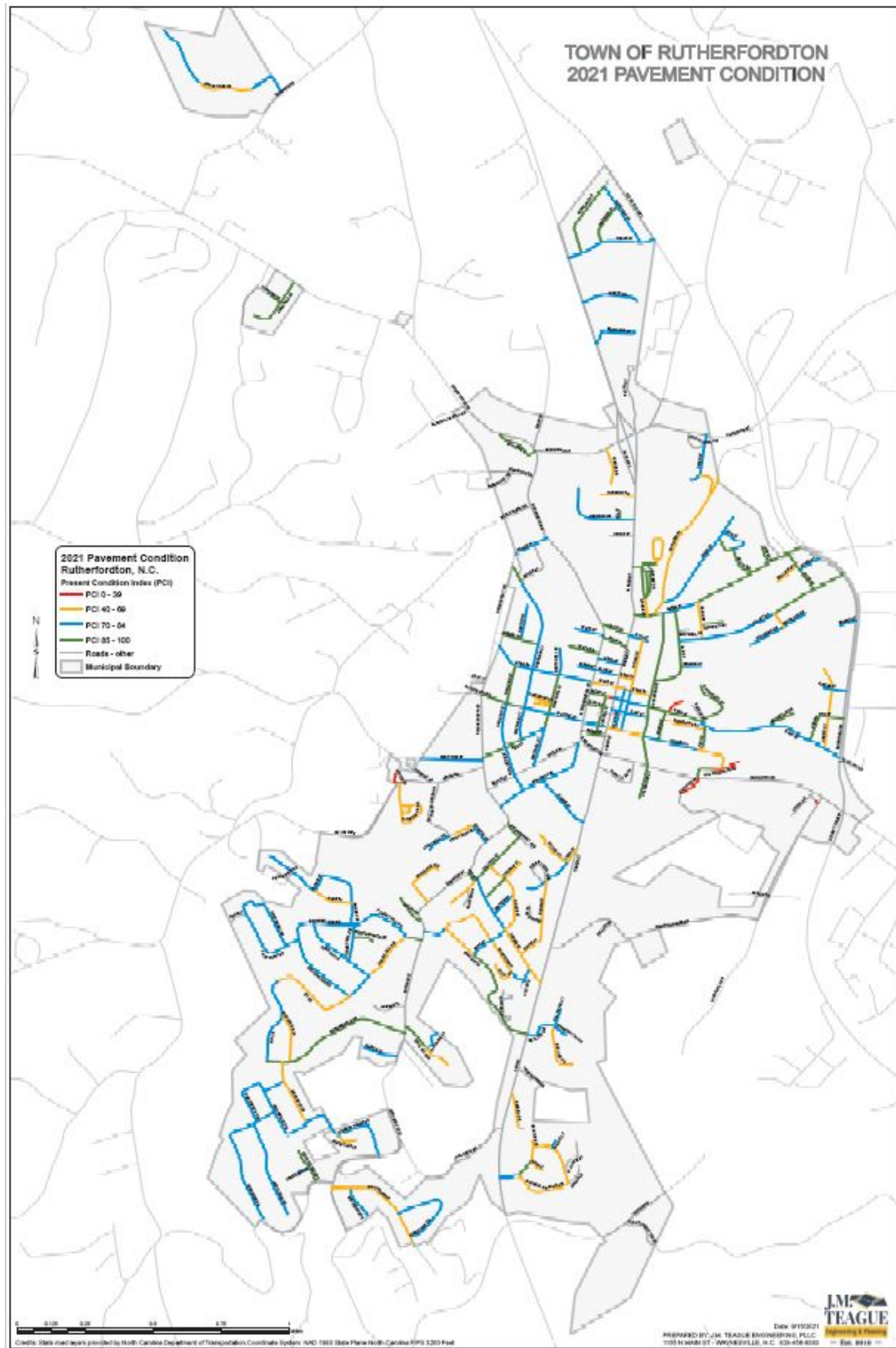


Figure 2 Pavement Condition Map

TYPES OF MAINTENANCE

Figure 3 is a decision tree that may be used to choose the maintenance technique for a street section. The decision tree assumes that Rutherfordton's public streets have daily traffic volumes less than 10,000 vehicles per day.

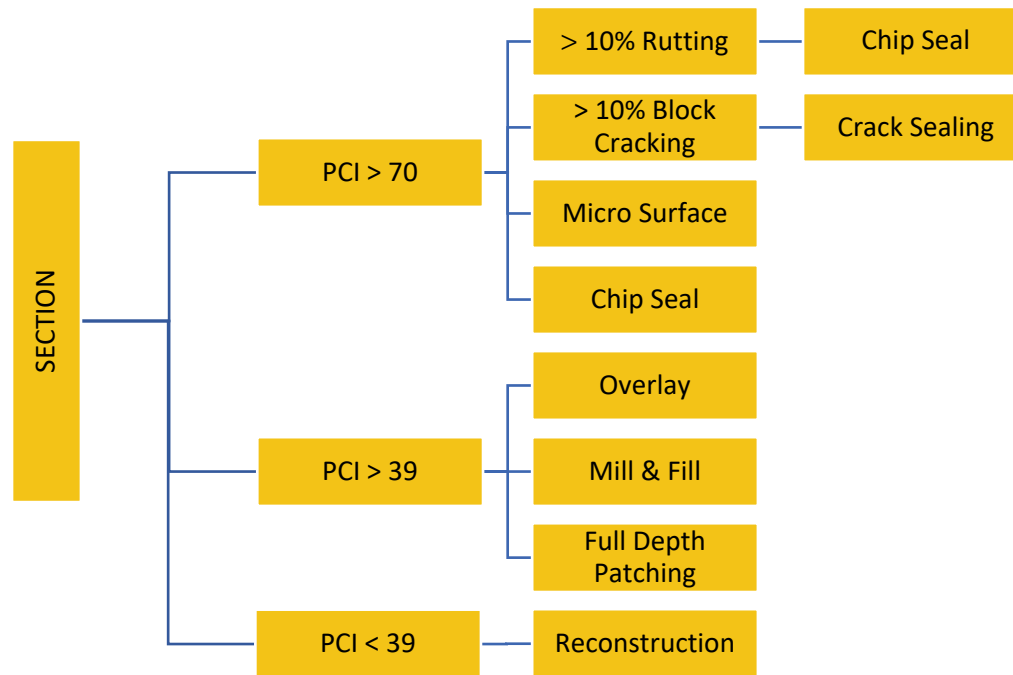


Figure 3 Pavement Maintenance Decision Making Tree

Reconstruction Needs

Table 1 shows the road segments in Rutherfordton that need complete reconstruction.

Table 1 Reconstruction Needs

Street Name	From	To	Length (mi)	PCI
HARPER ST	TRYON RD	END OF ROAD	0.06	14
COWAN ST	E. 2 ND ST	END OF ROAD	0.07	25
LAUREL DR ¹	LAUREL HILL DR	END OF PAVEMENT	0.01	27
EXECUTIVE DR ²	CHARLOTTE ST	END OF ROAD	0.09	39

¹ Laurel Dr will be 100% transitioned to NCDOT as part of the R-2233 project.

² Executive Dr has been awarded a \$300k ARC grant to rebuild the roadway and Reconstruct the curve.

LIKE YOUR HOUSE

Our houses are the biggest investment that most of us make. And the roof is one of the most important parts of our houses. Like the roof, the main purpose of the pavement is to keep water away from the road's base, like the roof of a house keeps water from the inside of a house.

If you let a roof leak long enough, you end up rebuilding the house. This is reconstruction. Replacing the roof at the end of twenty years is like resurfacing a road.

Preventative maintenance is the time and money you spend caulking leaks, sealing cracks, and replacing

Reconstruction

Involves completely replacing a section of road or street. Reconstruction is the most costly and expensive form of pavement maintenance. Typically, reconstruction involves closing a street to traffic and rebuilding it from the ground (base) up. It includes new stone base or full depth asphalt, replacing the existing drainage system and any utilities buried in the roadway. The out-of-pocket cost does not include the economic losses caused by detours and poor access. The Town of Rutherfordton has 0.21 miles of pavement that needs reconstruction.

Corrective Maintenance

Corrective maintenance corrects problems that affect the safe, efficient operations of the facility and integrity of the pavement. Corrective maintenance is reactive and restores pavement to an acceptable level of service. This type of maintenance is usually more costly than preventative maintenance. Repairs could be structural overlays, mill and overlays, minor pothole repair, patching, rutting or extensive cracking. Corrective maintenance is also referred to as "reactive" maintenance. The Town of Rutherfordton has 9.75 miles of pavement that needs corrective maintenance.

Preventative Maintenance

Preventative maintenance is the most effective way to extend pavement. Preventative maintenance is a strategy of surface treatments when the asphalt is in good condition. Pavements rated as good and satisfactory are candidates for preventative maintenance (pavement preservation). The goal of a pavement preservation is to extend the useful life of the roadway. From crack

sealing small cracks to sealcoating parking lots, preventative maintenance addresses small issues before they become big problems. The Town of Rutherfordton has 21.97 miles of pavement that needs preventative maintenance.

Table 2 Preventative Maintenance Techniques

Treatment	Estimated Cost	Guidance	Activity Benefit
Crack sealing	\$3500 per day	< 1/2inch wide without alligator cracking	Keeps moisture out of pavement and subgrade
Mill and replace 1 lift and 1 lane	\$175 per ton	Use when too much cracking for crack sealing, roughride quality or excessive rutting or Patching	Improved riding surface in truck lane.
Chip seal, slurry seal, fog seal	\$4.00 sq yd.	Oxidation. Low to moderate severity cracking	Refresh asphalt surface Safety. Improved lane delineation.
Open graded friction course or Ultrathin bonded wearing course	\$10 sq yd (small quantity)	Constrained elevation, cracking issues, OGFC also to minimize splash and spray in wet weather.	Improved wearing course with change in elevation.

Emergency Maintenance

The health and safety of the traveling public are of paramount concern. Agencies perform emergency maintenance, without regard to cost, during emergencies such as a blowout or severe pothole that needs immediate repair immediately for safety reasons or to allow traffic to use the roadway. This also describes temporary treatments designed to hold the surface together until more permanent repairs can be performed.

PRIORITIZATION

There are two parts of project prioritization and selection. First the Town needs to decide how much money to allocate to preventative maintenance versus corrective maintenance and reconstruction. Second the Town needs to decide which projects to fund first.

When prioritizing pavement work it is important to consider and rank the Town's goals. There are four goals for pavement work: increasing capacity, increasing strength, reducing aging, and

restoring serviceability. The approach the Town takes will depend upon the importance of each goal. The pavement condition survey is an aid to prioritizing and programming pavement maintenance. However, it is important for Town staff and decision-makers to set goals and prioritize projects. JMTE's work is informative not prescriptive. However, we encourage:

1. Prioritize preventative maintenance ahead of corrective maintenance or reconstruction because keeping good roads good is more economical than fixing poor or failed roads,
2. To ensure quality use products and methods on the North Carolina Department of Transportation's approved products list,
3. Repairs should comply with NCDOT Specification, and Contractors should be a member, in good standing of the Carolina Asphalt Pavement Association.

PROGRAMMING STRATEGY

Prioritization Tools

Table 3 lists three prioritization tools that staff can use to select pavement projects. Each tool is further described along with its strengths and weaknesses after the table.

Table 3 Project Selection Strategies

Strategy	Pluses	Minuses
Simple Ranking	Easy to understand Easy to defend Solves obvious problems first	Ignores preventative maintenance reactive Expensive project may be delayed uneconomical Ignores other factors
Geographic Distribution	Easy to understand Easy to defend May ignore obvious problems	Subjective May ignore preventative maintenance Inconsistent selection(s)
Decision Matrix	Weighs multiple goals Narrows many options Repeatable	Can lead to tunnel vision Criteria should not be inter-related May be insensitive

Simple Ranking (Worst First)

The simplest strategy is to use the raw data from the pavement condition assessment and schedule resurfacing projects based solely on the rating, considering no other factors. When pavement condition data are available this is perhaps the easiest strategy to understand, implement, and defend. The public works department would dole out the money to the worst projects first. Any projects too expensive to complete would be skipped in favor of less expensive projects. However, this method is reactive and only addresses large problems. It does not consider other factors than the existing condition of the pavement. Other factors could include volume along the roadway, location, and cost of repair.

Geographic Selection (Place First)

Figure 4 show how a geographic distribution could work. In the example a \$100 budget is divided equally between four work zones. Each Zone gets a \$25 to address the needs listed in the Figure 2. In this example, the streets in zone 1 need more work than the streets in the other two zones while Zone 4 has only preventative maintenance needs. Using a Geographic may create a situation in which one part of town has excellent roads while another part of town has terrible roads.

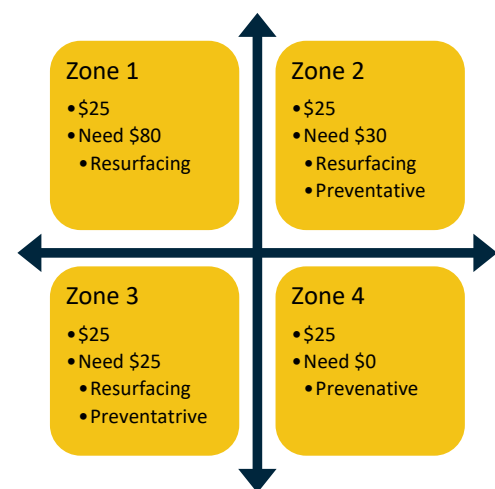


Figure 4 Geographic Distribution

Decision Matrix

A decision matrix is a tool that can be used to compare multiple alternatives based on various criteria. Criteria can be weighted based on level of importance to the party making the decision. By utilizing this approach, an alternative can be selected that will best mitigate issues of high priority. In the event of multiple projects being under evaluation, this process will allow help to determine the order in which these projects should be completed. The criteria may be adjusted based on reprioritization or if additional factors need to be considered when using a decision

The Present Condition Index Table 3 and Table 4 are in Appendix B. Typically, a rating less than 50 indicates a distressed roadway that needs immediate attention to prolong the useful life of the roadway surface. Based on the collected data, there is approximately 2.08 mile of roadway that fall into this category.

Alternative Strategies

In some cases, it is desirable to incorporate a pattern into a resurfacing program that either focuses on a certain section of town or provides a higher priority to streets adjacent to other streets with a low score. Depending on the Town funds, repair to all the roadways within a

specific section of town at one time might be desirable to decrease the mobilization cost by a contractor. For instance, sections of Harper Street, Cowan Street, Laurel Drive and Executive Drive are currently the lowest-rated roadways.

Another strategy is to focus on the streets that are in better condition to prolong their lifespan. This will include regular crack sealing and patching. While this strategy is being incorporated, streets in the worst condition can be completely rehabilitated and resurfaced in small segments which will allow them to enter the strategic cycle of focusing on the better-conditioned streets. NCDOT emphasizes this strategy, with the slogan “the right road, the right treatment and at the right time.”

PAVEMENT PRESERVATION

The goal of pavement preservation is to maintain proper roadway conditions beyond a roadway’s expected lifespan. To prolong pavements on certain sections of the roadway, creative pavement preservation treatments are recommended as funding and resources allow. Treatments such as crack sealing, full surface seals, mat & seals, and full-depth patching should be considered on a case-by-case basis. Chip seals can extend the service life of light to moderately traveled plant mix roads with low alligator cracking scores. If asphalt pavements are designed and constructed correctly – meaning the subgrade is sound and compacted, the appropriate base material is placed and compacted properly, and the correct thickness of hot mix (based on type and volume of traffic) is placed and compacted properly – seal coating will extend pavement life by protecting the asphalt binder from oxidation, slowing the inevitable deterioration.

The tables in Appendix B give the breakdown of pavement score by type of distress. Pavements with moderate to severe transverse cracking but with little alligator cracking and little to no deformation affecting ride quality may have their useful life extended by having “crack-sealing” performed. Crack sealing can preserve and prolong the existing pavement for several years and will provide a low-cost alternative to a typical resurfacing operation. The approximate cost for crack sealing is around \$3,500 per day. This method can also free up funds for resurfacing on roads that truly need it based on the factors discussed earlier.

Aesthetics are a common challenge for surface treatments other than plant mix resurfacing. Residents may not like the appearance of crack sealed roads or the rough texture of a chip sealed road. Sometimes chip sealed roads will contain loose gravel for a while after treatment, further contributing to the public dislike of not using plant mix. These resident desires need to be incorporated into any treatment decision process.

It is recommended that a new pavement condition assessment and re-prioritization be conducted every three to five years to capture special roadway treatments, street repairs, and added pavement deterioration that have occurred since the last survey cycle.

SURVEY METHOD

The pavement condition assessment method used by JMTE is based on a standard North Carolina Department of Transportation (NCDOT) pavement condition assessment and in accordance with the 2012 NCDOT Pavement Condition Survey Manual. Roadway distresses are observed, measured, and given a severity rating. Types of evaluated distress include alligator cracking, transverse cracking, rutting, oxidation, ride quality, patching, bleeding, and raveling. The points are tabulated to determine a final rating for each section of the roadway. These ratings combined can provide a Present Condition Index (PCI) for each section of the roadway.

Survey Scope

The scope of work for this survey was a 100% visual survey of all paved roads and streets on the Town's Powell Bill Map. For two days (July 27- 28, 2021), a JMTE team assessed the Town's roads. The current pavement conditions were collected along with images and geolocated points using a Trimble Geo7x handheld device. Each section of the roadway was given an overall rating for each type of distress. During the assessment, the primary and secondary road crossings and the directional side of the street were noted to further identify the location of the recorded data. Other drainage and safety issues were also geospatially recorded during the assessment for use in this report but did not affect the PCI calculation. Following the field work, all the geospatial data was downloaded and differentially corrected using Pathfinder Office software. The corrected data along with images and field notes were used to develop the pavement serviceability tables and maps.

Pavement Condition Index

The Pavement Condition Index measures eight distress types to estimate the remaining service life of a pavement section. Table 5 shows some of the criteria that the raters use in assessing the type and severity of the distress.

Distress Types

Alligator Cracking: is a structural failure related to heavy vehicle loads. The failure can affect the surface, base or subbase. Rutting often accompanies alligator cracking but does not have to be present for there to be alligator cracking. Cracking first begins in the wheel path, usually as thin longitudinal crack. Further stress creates an alligator pattern. As the pavement flexes the crack will become wider. The alligator pattern may not develop until severe distress sets in. Alligator cracking also includes cracking edge of the pavement.

Transverse, Block or Reflective Cracks: divide the pavement into roughly rectangular pieces. Block cracking is generally caused by shrinkage of the asphalt concrete and daily temperature cycling. Wheel path loads can increase the severity of block cracking if water is allowed to penetrate the cracks. It is therefore very important to seal these cracks to prevent water penetration into the base materials.

Transverse cracking includes reflective cracking of asphalt resurfacing over concrete. Reflective cracking is caused by movement (rocking) of the concrete slab under the asphalt overlay. This movement is due to thermal and moisture changes and faulting at the joints. Often, the reflective joints are bulged above the riding surface such that the vehicle is riding over small bumps.

Rutting, or routing is a depression in the wheel path(s). Rutting causes deformation in the asphalt layers or in the subgrade. It is usually caused by consolidation or lateral movement of the materials due to traffic loads. Movement in the mix in hot weather or inadequate compaction during construction is the main cause of rutting. Rutting is also commonly present with moderate or severe alligator cracking. As water penetrates through the asphalt to the base weakens the base making rutting more likely.

Raveling: is the stripping or wearing away of the pavement surface as aggregate is dislodged from the asphalt binder. Raveling is uncommon in plant mixes.

Bleeding: is a film of bituminous material on the pavement surface that creates a shiny, reflective surface. Bleeding is caused by excess asphalt cement in the mix and/or low air void content. During hot weather, the asphalt fills the voids of the mix and then expands out onto the surface of the pavement.

Patching: is the surface area of the existing pavement that indicates some type of maintenance repair has taken place. Patches may be Plant Mix or BST skin patches, edges, overlays or full depth patches. They may be in spot locations, along the edges, in the wheel paths, across the entire surface, or a combination of these. Patching is measured as the percent of the surface that is patched. The condition of a patch is not considered when evaluating patching. For example, if a patch is alligator cracked then the cracking is considered separately from the patch.

Oxidation (weathering): is the hardening and aging of the asphalt binder. This condition is only found on plant mix pavement. When weathering is present it usually covers the entire surface and pitting is evident.


Ride quality: is what the driving public perceives as the indicator of how well a road is holding up. Edge rutting, patching and localized dips contribute to the rating. Sever or rough pavement will make it difficult to safely maintain the operating speed.





Table 4 Distress Severity




Severity	Alligatoring (Width)	Transverse/Blocking (Width)	Rutting (Depth)	Raveling	Bleeding (%)	Patching (%)	Oxidation	Ride Quality
None	NA	NA	NA	NA	NA	NA	NA	NA
Light	< 1/8"	< 1/4"	1/4" - 1/2"	Small Amt	< 25% (1 wheel path)	6%-15%	None	Low noise, Smooth Operation
Moderate	1/8" - 1/4"	1/4" - 1/2"	1/2" - 1"	Moderate Amt	25% - 50%	16% - 30%	None	Rough Operation
Severe	3/8" - 1/2"	> 1/2"	> 1"	Bare spots > 1 sf	> 50 %	> 30%	Severe	Speed Reduction

Pavement Conditions Observed

Table 5 Pavement Condition Field Observations

Location	Picture	Notes
BECHTLER CT		Sunken roadway and in the long term may allow water to infiltrate the base and subgrade causing pavement failure. Refer to NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020).

Location	Picture	Notes
BENTON LN		<p>This section of road is reverse crowned (i.e., it drains to the center of the road). Normal crown is $\frac{1}{4}$" per foot. Refer to NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020).</p>
BUTLER ST		<p>Bad patch that is hazardous to automobile and non-motorized users. Refer to Appendix C: Pavement Maintenance Activities, Skin Patch.</p>
CALLAHAN ST		<p>Severe alligator cracking. Refer to Appendix C: Pavement Maintenance Activities, Root Pruning.</p>
COWAN ST		<p>Severe alligator cracking, raveling, rutting. The long-term solution is reconstruction of this section. Refer to NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020).</p>

Location	Picture	Notes
FREEMAN ST		Bad patch that is hazardous to automobile and non-motorized users. Refer to Appendix C: Pavement Maintenance Activities, Skin Patch.
HARPER ST		Severe alligator cracking and severe transverse cracking. The long-term solution is reconstruction of this section. Refer to NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020).
QUAIL HILL DR		Severe alligator cracking, raveling, rutting. The long-term solution is reconstruction of this section. Refer to NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020).




OTHER CONCERNS




While in the field JMTE's rating team noted other conditions that affect the user experience for the system or the integrity of the system. Once the Town is aware of these issues, they can easily be mainstreamed as part of the maintenance process. These conditions are discussed near the end of the report and related to signs and safety, drainage issues (including probably structural failure of storm drains, sewers, or water pipes) and inconsistencies between the Powell Bill Map and the signage (e.g., private streets included in Powell Bill mileage).

Drainage

Maintaining good drainage and keeping the base and subgrade dry are critical for maintaining serviceable pavement. The table below shows drainage issues that JMTE's survey observed.

Table 6 Drainage Concerns Field Observations





Location	Picture	Notes
E. COURT ST		The gutter pan is blocked by vegetation and debris. This may cause water to penetrate beneath to the base causing long term damage. The depressed line of flow may cause a hazard for users. Rutherfordton staff should evaluate this possible hazard during maintenance.
FOREST HILLS CIR		Erosion around the culvert is causing pavement edge cracking. The pipe should be extended with the addition of rip rap. Rutherfordton staff should evaluate this possible hazard during maintenance.
HARPER ST		The drainage ditch along the road is in need of maintenance. This may cause water to penetrate beneath to the base causing long term damage. Rutherfordton staff should evaluate this possible hazard during maintenance.




Location	Picture	Notes
REECE ST		The drainage ditch has extensive erosion. This may cause water to penetrate beneath to the base causing long term damage. Rutherfordton staff should evaluate this possible hazard during maintenance.
SEVEN OAKS LN		Water flow along the edge is creating a depression in the roadway. Drainage should be added to the roadway.
WESTVIEW ST		The depressed flow line creates a pavement drop-off that is hazardous to automobile and non-motorized users.

Other Maintenance Activities Affecting the Street System

JMTE was specifically asked to identify locations where utility cuts and pipe failures had caused pavement failures. We found that the most common problems were incomplete patching subsidence caused by failing pipes or poorly compacted backfill. We also discovered several pavement openings that need to be patched.

Table 7 Utility issues

Location	Picture	Notes
CARNEGIE RD		Patch failed around manhole. The manhole may be leaking. The backfill around this manhole has subsided noticeably. Assess the condition of the manhole and develop a repair plan based upon its condition.
E. 3RD ST		Pavement opening that needs patching. Refer to Appendix C: Pavement Maintenance Activities, Full Depth Patching.
FAIRWAY DR		Sunken utility cut in the roadway and in the long term may allow water to infiltrate the base and subgrade causing pavement failure. Staff should monitor this location for distress and consider full depth patching if the distress progresses.
FREEMAN ST		The utilities running under the road appears to have caused sinking and heaving of the pavement. The appropriate pipe repair should be made. Refer to Appendix D: NCDOT Pavement Repairs 654.01.



Location	Picture	Notes
JUSTICE DR		The manhole may be leaking. The backfill around this manhole has subsided noticeably. Assess the condition of the manhole and develop a repair plan based upon its condition.
S. HILLSIDE ST		Patch unfinished. Perform full depth patching at this location. Refer to Appendix C: Pavement Maintenance Activities, Full Depth Patching.
WALNUT CT		Sunken utility cut in the roadway and in the long term may allow water to infiltrate the base and subgrade causing pavement failure. There is also evidence of standing water in this picture. Staff should monitor this location for distress and consider full depth patching if the distress progresses.

Signs and Markings

JMTE's rating team noted instances of incorrectly placed or poorly maintained signs. Our team noted one stop sign that was severely faded. Improperly placed or faded stop signs may be unenforceable and can cause liability issues in motor vehicle crashes.

A complete assessment of signs needing to be replaced is beyond the scope of this work. JMTE recommends that the Town of Rutherfordton perform, or commission, a 100% sign assessment to develop a sign inventory and develop a sign replacement program.

Table 8 Sign Maintenance

Location	Picture	Notes
HARPER ST		Replace faded stop sign and properly install.
RUSSELL DR		The street sign is misaligned with the proper roadway. Russell Drive runs diagonal to S. Main Street.

APPENDIX A: GLOSSARY OF TERMS

TERM	DEFINITION
Aggregate Base Course (ABC)	Commonly called 'gravel' it is crushed stone used as the base of some asphalt pavement.
Asphalt (Bituminous) Emulsion	Asphalt (bituminous) emulsion is a liquid asphalt cement emulsified in water. It is composed of asphalt, water, and an emulsifying agent. Asphalt emulsions are an environmentally friendly, energy efficient and cost-effective product. All asphalt emulsions are designed to eventually break or revert to asphalt and water. Asphalt emulsions can cost less than thin hot mix asphalt overlays.
Asphalt (Bituminous) Surface Treatment	An asphalt surface treatment or wearing course is any application of asphalt materials to the roadway with a thickness less than 1 inch.
Base Course	This is the layer located immediately beneath the binder course. It is designed to provide additional load distribution and contributes to drainage. The base course is usually constructed out of a 4 to 6-inch layer of crushed aggregate or hot mix asphalt. See image on page 4.
Binder Course	This layer is considered part of the surface course and is most often constructed out of an additional 1.5 to 2-inch layer of hot mix asphalt. See image on page 4.
Bitumen (Bituminous)	Bitumen (bituminous) is another word for asphalt. Bitumen is made from crude oil by distillation. One of the drawbacks of bitumen is that it will only adhere to aggregate particles if that aggregate is heated sufficiently to drive off all moisture. This is a costly and energy-intensive procedure. Addition of bituminous emulsions can assist in making the bitumen workable at ambient temperatures
Non-Working cracks	Non-working cracks are horizontal and vertical movements in a crack measuring less than 0.1 inches. These can include longitudinal, diagonal or alligator cracks.

TERM	DEFINITION
Plant Mix	Plant mix is synonymous to “bituminous concrete” and typically comes in surface course, binder course, and base course mixes. Plant mix combines liquid asphalt with stone and sand aggregates of specified gradations and percent asphalt in an off-site plant at high temperature. The mix is hauled by trucks to a paving operation which includes a paving machine that receives the asphalt mix in a hopper that feeds a spreader to distribute the mix evenly along the road while providing initial compaction. Rolling machines then drive over the mix until proper compaction is achieved. Plant mix paving is a strength-restoring treatment and may be combined with milling or full depth pavement patching to remove deteriorated asphalt.
Recycled Bituminous Pavement	Recycled bituminous pavement is reclaimed asphalt pavement that is milled, crushed, and processed into an emulsion or hot-mix asphalt at a central location and then paver- placed onto the roadway. Most asphalt is recycled. Virgin asphalt may be requested at a higher cost.
Structural Overlay	Structural overlay is a layer of hot or cold bituminous mix that is sufficiently thick to increase the structural capacity of existing pavement. A structural overlay needs to be engineered specifically for the location of use. A structural overlay can be between 5 to 12 inches thick, depending on the design.
Subbase Course	This layer provides strength and support to the roadway. It creates a stabilized and workable surface for placing pavement. It can be made up of a 6 to 9-inch layer of lower quality material such as granular fill, manufactured aggregate, crushed rock, or recycled materials such as concrete or brick. Depending on the subgrade, the subbase course is not always needed.

TERM	DEFINITION
Subgrade	This layer is normally made up of native soil that has been compacted to withstand the load of the roadway and vehicle use. See image below.
Surface Course	This layer is also called a "wearing course." It is a 1 to 1.5-inch asphalt layer that is in direct contact with traffic loads. It is designed to prevent surface water from infiltrating into the roadway's base layers.
Tack Coat	A sprayed application of an asphalt binder upon an existing asphalt or Portland cement concrete pavement prior to an overlay, or between layers of new asphalt concrete.

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
ALLEN ST (RR)	NORTH ST	COLLETT ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
ALLEN ST (RR)	NORTH ST	GREEN ST	0.07	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
AMBER OAKS DR	293 Amber Oak Dr	END OF ROAD	0.24	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
AMBER OAKS DR	THOMPSON RD	END OF MEDIAN	0.20	P	8	2	0	0	Light	None	None	None	None	Severe	Light	78.4
AMBER OAKS DR	END OF MEDIAN	293 AMBER OAK DR	0.20	P	0	10	0	0	None	None	None	None	None	None	Light	62.0
ANNE ST	THOMAS ST	END OF ROAD	0.22	P	8	1	1	0	Light	None	Light	None	None	None	Light	79.2
ANNE ST	THOMAS ST	FAIRWAY DR	0.15	P	4	4	1	1	Light	None	None	None	None	None	Light	56.6
ARNETT ST	E 2ND ST	END OF ROAD	0.30	P	8	2	0	0	Light	None	None	Light	None	Severe	Light	68.4
AZALEA DR	EDWARDS ST	END OF ROAD	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
BECHTLER CT	GENERAL GRIFFITH CR	END OF ROAD	0.03	P	0	5	5	0	Moderate	None	None	None	None	None	Light	43.0
BEECHTREE CIR	WOODRIDGE DR	173 BEECHTREE CIR	0.18	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BEECHTREE CIR	173 BEECHTREE CIR	WOODRIDGE DR	0.17	P	6	4	0	0	None	None	None	None	None	None	Light	81.8
BENT CREEK DR	RIDGEVIEW DR	END OF ROAD	0.36	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
BENTON LN	GABRIEL ST	END OF ROAD	0.13	P	8	2	0	0	Light	None	None	None	None	Severe	Light	78.4
BRANCH ST	ELM ST	END OF ROAD	0.07	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BRIARWOOD DR	COUNTRY WOODS DR	HONEYSUCKLE DR	0.24	P	2	8	0	0	Light	None	None	None	None	None	Light	63.6
BRIARWOOD DR	BRIARWOOD DR	BRIGHTMOOR CIR	0.08	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BRIARWOOD DR	BRIGHTMOOR CIR	BRIARWOOD DR	0.26	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
BRIGHTMOOR CIR	BRIARWOOD DR	RIDGEVIEW DR	0.23	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BUTLER ST	LYNCH ST	END OF ROAD	0.16	P	8	1	1	0	Light	Severe	None	None	None	None	Light	49.2
CALLAHAN ST	S RIDGECREST AVE	TANNER ST	0.22	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CALLAHAN ST	TANNER ST	END OF ROAD	0.13	P	4	5	0	1	Light	None	None	None	None	None	Light	58.5
CARNEGIE RD	N MAIN ST	END OF ROAD	0.13	P	0	2	1	2	Light	None	None	None	None	None	Light	56.0
CARPENTER LN	N MITCHELL ST	END OF ROAD	0.16	P	2	0	4	0	Light	None	None	None	None	None	Light	60.0
CARRIAGE DR	JAMESFIELD DR	END OF ROAD	0.06	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
CEDAR LN	US 221	OLD US 221	0.33	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CEDAR ST	GREEN ST	COLLETT ST	0.14	P	6	4	0	0	Moderate	None	None	None	None	None	Light	66.8
CEDAR ST EXT	CEDAR ST	END OF ROAD	0.08	P	10	0	0	0	None	Light	None	None	None	None	Light	90.0
CEMETERY DR	CLARKE DR	CEMETARY DR SOUTH LOOP WEST	0.11	P	9	1	0	0	None	Light	None	None	None	None	Light	86.7
CEMETERY DR	CEMETARY DR SOUTH LOOP WEST	CEMETARY DR SOUTH LOOP MID	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CEMETERY DR	CEMETARY DR SOUTH LOOP MID	CEMETARY DR SOUTH LOOP EAST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
CEMETERY DR	CEMETARY DR SOUTH LOOP EAST	CEMETARY DR	0.06	P	10	0	0	0	None	Light	None	None	None	None	Light	90.0
CEMETERY DR	CEMETARY DR	CEMETARY DR NORTH LOOP MID	0.11	P	6	2	0	2	Light	None	None	None	None	None	Light	58.0
CEMETERY DR	CEMETARY DR NORTH LOOP MID LOOP	CEMETARY DR	0.10	P	6	2	1	1	Light	None	None	None	None	None	Light	60.9
CEMETERY DR	CEMETARY DR	N MAIN ST	0.07	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CENTRAL ST	W 2ND ST	TRADE ST	0.14	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
CHERRY MTN ST	E 2ND ST	RAILROAD AVE	0.19	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CLARKE DR	GREEN ST	CEMETERY DR	0.07	P	6	3	0	1	None	None	None	None	Light	None	Light	65.1
CLUBHOUSE DR	INNER LOOP	OUTER LOOP	0.33	P	5	2	1	2	Light	None	None	None	None	None	Light	56.0
COLLETT ST	ELM ST	HUTCHINS DR	0.37	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
COLLETT ST	HUTCHINS DR	RAILROAD AVE	0.29	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
COUNTRY WOODS DR	EDWARDS ST EXT	SEVEN OAKS LN	0.22	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
COUNTRY WOODS DR	SEVEN OAKS LN	BRIARWOOD DR	0.16	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
COWAN ST	E 2ND ST	END OF PAVEMENT	0.05	P	0	3	3	4	Moderate	None	None	None	None	None	Severe	25.0
COWAN ST	E COURT ST	E 2ND ST	0.11	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
CREEKVIEW DR	CRICKET CREEK DR	END OF ROAD	0.04	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
CRESCENT ST	CEDAR LN	SASSAFRAS RD	0.16	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CRESTVIEW ST	PARKWAY DR	PARK ST	0.24	P	4	3	1	1	Light	None	None	None	Light	None	Light	52.6
CRESTVIEW ST	PARK ST	HALL ST	0.14	P	0	2	0	1	Light	None	None	None	Light	None	Light	63.4
CRESTVIEW ST	HALL ST	PATTON ST	0.05	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CRESTVIEW ST	PARKWAY DR	EDWARDS ST	0.09	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CRICKET CREEK DR	EDWARDS ST EXT	END OF ROAD	0.13	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
DETER ST	E MOUNTAIN ST	END OF ROAD	0.19	P	0	5	0	0	Light	None	None	None	None	None	Light	73.5
DETER ST EXT	DETER ST	SOUTHERN ST	0.10	P	0	5	5	0	Moderate	None	None	None	None	None	Light	43.0
DOGWOOD LN	FOREST HILL CIR	SQUIRREL DEN RD	0.20	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
E 1ST ST	N MAIN ST	N CLEGHORN ST	0.14	P	7	3	0	0	Moderate	None	None	None	None	None	Light	70.1
E 2ND ST	RAILROAD AVE	CHERRY MTN ST	0.13	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
E 2ND ST	CHERRY MTN ST	MOUNTAIN DR	0.16	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
E 2ND ST	MOUNTAIN DR	RAVENWOOD ST	0.27	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
E 2ND ST	RAVENWOOD ST	N CLEGHORN ST	0.20	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
E 2ND ST	N CLEGHORN ST	N MAIN ST	0.13	P	8	1	1	0	Moderate	None	None	None	None	None	Light	69.2
E 3RD ST	N MAIN ST	N CLEGHORN ST	0.13	P	6	2	1	1	Light	None	None	None	None	None	Light	60.9
E 4TH ST	N MAIN ST	N TOMS ST	0.05	P	7	2	0	1	Moderate	None	None	None	None	Severe	Light	53.4
E 7TH ST	N TOMS ST	N MAIN ST	0.05	P	4	5	1	0	None	None	None	None	None	None	Light	71.0
E COURT ST	S MAIN ST	N CLEGHORN ST	0.14	P	5	3	2	0	Moderate	None	None	None	None	None	Light	55.1
E COURT ST	OLD CHARLOTTE RD	LEVI ST	0.14	P	0	2	0	1	Light	None	None	None	None	None	Light	68.4
E COURT ST	LEVI ST	N CLEGHORN ST	0.21	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
ELM ST	GREEN ST	BRANCH ST	0.20	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
ELM ST	BRANCH ST	N CLEGHORN ST	0.13	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
EXECUTIVE DR	CHARLOTTE RD	END OF ROAD	0.09	P	1	3	4	2	Moderate	None	None	None	None	None	Light	39.0
FAIRFOREST DR	SQUIRREL DEN RD	FAIRFOREST DR	0.59	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
FAIRWAY DR	FOREST HILL CIR	THOMAS ST	0.27	P	7	1	1	1	Light	None	None	None	None	None	Light	64.2
FOREST HILL CIR	EDWARDS ST	FOREST HILL CIR	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
FOREST HILL CIR	FOREST HILL CIR	FAIRWAY DR	0.23	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
FOREST HILL CIR	IVY DR	FOREST HILL CIR	0.09	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
FOREST HILL CIR	SQUIRREL DEN RD	DOGWOOD LN	0.14	P	6	3	0	1	Light	None	None	None	None	None	Light	65.1
FOREST HILL CIR	IVY DR	FOREST HILL CIR	0.20	P	5	3	1	1	Light	None	None	None	None	None	Light	57.6
FREEMAN ST	HODGE ST	TANNER ST	0.10	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
FREEMAN ST	HODGE ST	END OF ROAD	0.09	P	9	0	1	0	Severe	None	None	None	None	None	Light	57.5
FROSTY LN	CALLAHAN ST	EDWARDS ST	0.04	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
GABRIEL ST	N MERIDIAN ST	TOWN LIMIT	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
GENERAL GRIFFITH CR	S MAIN ST	GENERALGRIFFITH CR	0.07	P	7	2	1	0	None	None	None	None	None	None	Light	80.9
GENERAL GRIFFITH CR	GENERALGRIFFITH CR	JORDAN LN	0.21	P	2	7	0	1	Light	None	None	None	None	None	Light	56.5
GENERAL GRIFFITH CR	JORDAN LN	ST JOHN'S ST	0.05	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
GENERAL GRIFFITH CR	ST JOHNS ST	WALNUT CT	0.10	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
GENERAL GRIFFITH CR	WALNUT CT	BECHTLER CT	0.07	P	4	4	1	1	None	None	None	None	None	None	Light	61.6

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
GENERAL GRIFFITH CR	BECHTLER CT	GRAY CT	0.06	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
GENERAL GRIFFITH CR	GRAY CT	GENERAL GRIFFITH CR	0.06	P	7	3	0	0	None	None	None	None	None	None	Light	85.1
GRACE ST	GREEN ST	OAK ST	0.12	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
GRAY CT	GENERAL GRIFFITH CR	END OF ROAD	0.06	P	0	4	6	0	Moderate	None	None	None	None	None	Light	42.0
GRAYSON DR	N MAIN ST	END OF ROAD	0.30	P	0	3	1	0	Light	None	None	None	None	None	Light	72.6
GREEN ST	N MAIN ST	N CLEGHORN ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
GREEN ST	SPARKS ST	RAILROAD AVE	0.13	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
GREEN ST	SPARKS ST	GRACE ST	0.07	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
GREEN ST	GRACE ST	CEDAR ST	0.23	P	10	0	0	0	Light	None	None	None	Light	None	Light	85.0
GREEN ST	CEDAR ST	N CLEGHORN ST	0.13	P	9	1	0	0	Moderate	None	None	None	None	None	Light	76.7
GREENWAY TRACE	SKYLINE DR	END OF ROAD	0.05	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
HALL ST	CRESTVIEW ST	END OF ROAD	0.10	P	0	2	1	1	Moderate	None	None	None	None	None	Light	50.9
HARDIN ST	LYNCH ST	HARDIN ST EXT	0.15	P	5	3	2	0	Light	None	None	None	None	None	Light	65.1
HARDIN ST	HARDIN ST EXT	SOUTH ST	0.08	P	6	2	2	0	Light	None	None	None	None	None	Light	68.4
HARLEY DR	US 221	END OF ROAD	0.24	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
HARPER ST	TRYON RD	END OF ROAD	0.06	P	0	2	4	4	Severe	None	None	None	None	None	Moderate	14.0
HARRIS ST	S MAIN ST	MONFREDO ST	0.22	P	9	0	1	0	Light	None	None	None	None	None	Light	82.5
HICKORY ST	CHIMNEY ROCK RD	N WASHINGTON ST	0.16	P	8	2	0	0	None	None	None	None	None	None	Light	88.4
HILL ST	GRAYSON DR	END OF ROAD	0.03	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
HILLTOPPER CT	SKYLINE DR	NEW PAVEMENT	0.07	P	7	3	0	0	None	Light	None	None	None	None	Light	80.1
HILLTOPPER CT	NEW PAVEMENT	GREENWAY TRACE	0.28	P	10	0	0	0	None	None	None	None	None	None	None	100.0
HODGE ST	CRESTVIEW ST	TANNER ST	0.07	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
HODGE ST	TANNER ST	CALLAHAN ST	0.28	P	5	3	2	0	Light	None	None	None	None	None	Light	65.1
HONEYSUCKLE DR	IVY DR	WOODBRIAR LN	0.09	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
HONEYSUCKLE DR	WOODBRIAR LN	EDWARDS ST	0.48	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
HOSPITAL DR	TWITTY FORD RD	EDWARDS ST	0.06	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
HUTCHINS DR	COLLETT ST	WOODLAND DR	0.06	P	5	3	1	1	None	None	None	None	None	None	Light	62.6
HUTCHINS DR	WOODLAND DR	END OF ROAD	0.15	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
IVY DR	SQUIRREL DEN RD	DOGWOOD LN	0.11	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
IVY DR	SQUIRREL DEN RD	330 IVY DR	0.32	P	4	3	3	0	Light	None	None	None	None	None	Light	57.6
IVY DR	330 IVY DR	WOODBRIAR LN	0.14	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
IVY DR	WOODBRIAR LN	HONEYSUCKLE DR	0.19	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
JAMESFIELD DR	CHIMNEY ROCK RD	END OF ROAD	0.22	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
JUSTICE DR	W MOUNTAIN ST	END OF ROAD	0.13	P	5	3	0	2	Light	None	None	None	None	None	Light	57.0
KEETER ST	END OF ROAD	RAILROAD AVE	0.09	P	8	1	1	0	None	None	None	None	None	Severe	Light	79.2
LAUREL DR	LAUREL HILL DR	END OF PAVEMENT	0.01	P	5	0	1	4	Moderate	None	None	None	Moderate	None	Moderate	27.0
LEROY MULL DR	DR HENRY NORRIS DR	END OF ROAD	0.10	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
LEVI ST	E 2ND ST	E COURT ST	0.10	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
LOWER CLUBHOUSE DR	CLUBHOUSE DR	CLUBHOUSE DR	0.06	P	6	2	0	2	Light	None	None	None	None	None	Light	58.0
LYNCH ST	S MAIN ST	BUTLER ST	0.07	P	4	3	3	0	Light	None	None	None	None	None	Light	57.6
LYNCH ST	BUTLER ST	CHERRY KNOLL DR	0.10	P	8	2	0	0	Light	None	None	None	Light	None	Light	78.4
LYNCH ST	CHERRY KNOLL DR	END OF ROAD	0.08	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
MARY'S LN	EDWARDS ST	END OF ROAD	0.14	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
MONFREDO ST	MAPLE ST	S RIDGECREST AVE	0.39	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
MOUNTAIN DR	E 2ND ST	END OF ROAD	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N CLEGHORN ST	E COURT ST	CHARLOTTE RD	0.11	C	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N CLEGHORN ST	E COURT ST	E 2ND ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
N CLEGHORN ST	E 2ND ST	GREEN ST	0.35	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
N HILLSIDE ST	W COURT ST	W 3RD ST	0.14	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N MERIDIAN ST	N RIDGECREST AVE	GABRIEL ST	0.32	P	9	0	1	0	Light	None	None	None	None	None	Light	82.5
N MERIDIAN ST	GABRIEL ST	W COURT ST	0.24	P	0	4	0	0	Light	None	None	None	None	None	Light	76.8
N MITCHELL ST	W COURT ST	W 3RD ST	0.15	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N MITCHELL ST	W 3RD ST	END OF ROAD	0.09	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
N TOMS ST	E COURT ST	E 3RD ST	0.15	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
N TOMS ST	E 3RD ST	E 7TH ST	0.19	P	2	5	3	0	Moderate	None	None	None	None	None	Light	45.6
NORTH ST	RAILROAD AVE	ALLEN ST (RR)	0.08	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
OAK ST	GRACE ST	REECE ST	0.13	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
OAK ST	REECE ST	GRACE ST	0.08	P	0	1	0	0	Light	None	None	None	None	None	Light	86.7
OLD CHARLOTTE RD	CHARLOTTE RD	END OF ROAD	0.09	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
PARK ST	PARKWAY DR	CRESTVIEW ST	0.08	P	8	2	0	0	Moderate	None	None	None	None	None	Light	73.4
PARKWAY DR	S MAIN ST	PARK ST	0.42	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
PARKWAY DR	PARK ST	CRESTVIEW ST	0.14	P	2	0	5	3	Light	None	None	None	None	None	Light	47.0
PARTRIDGE LN	QUAIL HILLS DR	END OF ROAD	0.08	P	7	1	1	1	Light	None	None	None	None	None	Light	64.2
PATTON ST	CRESTVIEW ST	TANNER ST	0.05	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
PINE ST	S MERIDIAN ST	S RIDGECREST AVE	0.16	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
PINE ST	S MITCHELL ST	S MERIDIAN ST	0.09	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
QUAIL HILLS DR	PARTRIDGE LN	END OF ROAD	0.10	P	0	7	3	0	Moderate	None	None	None	None	None	Light	43.6
QUAIL HILLS DR	EDWARDS ST	PARTRIDGE LN	0.12	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
RAVENWOOD ST	E 2ND ST	END OF ROAD	0.22	P	9	1	0	0	None	None	None	None	None	None	Light	91.7
RECREATION ST	COWAN ST	LEVI ST	0.16	P	2	8	0	0	Light	None	None	None	None	None	Light	63.6
REECE ST	SOUTHERN ST	END OF ROAD	0.42	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
RHODODENDRON DR	FOREST HILL CIR	END OF ROAD	0.09	P	8	2	0	0	None	None	None	None	None	None	Light	88.4
RIDGELAND DR	SASSAFRAS RD	CEDAR LN	0.32	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
RIDGEVIEW DR	BRIGHTMOOR CIR	BRIARWOOD DR	0.07	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
RIDGEVIEW DR	BRIGHTMOOR CIR	EDWARDS ST EXT	0.45	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
RUSSELL DR	S MAIN ST	END OF ROAD	0.12	P	4	3	2	1	Light	None	None	None	None	None	Light	57.0
S CLEGHORN ST	CHARLOTTE RD	END OF ROAD	0.12	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
S HILLSIDE ST	MONFREDO ST	MAPLE ST	0.06	P	0	2	0	0	Light	None	None	None	None	None	Light	83.4
S HILLSIDE ST	MAPLE ST	PINE ST	0.11	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
S HILLSIDE ST	PINE ST	W COURT ST	0.17	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
S MERIDIAN ST	W COURT ST	PINE ST	0.12	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
S MITCHELL ST	MAPLE ST	PINE ST	0.14	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
S MITCHELL ST	PINE ST	W COURT ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
S RIDGECREST AVE	EDWARDS ST	CALLAHAN ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
SASSAFRAS RD	CEDAR LN	RIDGELAND DR	0.25	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
SEVEN OAKS LN	COUNTRY WOODS DR	END OF ROAD	0.08	P	0	9	0	1	None	None	None	None	None	None	Light	59.5

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
SIMPSON ST	TANNER ST	HODGE ST	0.10	P	0	1	0	1	Light	None	None	None	None	None	Light	71.7
SKYLINE DR	S MAIN ST	GREENWAY TRACE	0.12	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
SKYLINE DR	GREENWAY TRACE	END OF ROAD	0.19	P	4	4	2	0	None	None	None	None	None	None	Light	66.8
SOUTH ST	HARDIN ST	TANNER ST	0.09	P	5	2	1	2	Light	None	None	None	None	None	Light	56.0
SOUTHERN ST	GREEN ST	TOWN LIMIT	0.56	P	4	2	0	4	Light	None	None	None	None	None	Light	52.0
SOUTHRIDGE DR	WOODRIDGE DR	TOWN LIMIT	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
SPARKS ST	GREEN ST	END OF ROAD	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
SQUIRREL DEN RD	FOREST HILL CIR	DOGWOOD LN	0.15	P	0	2	1	0	Light	None	None	None	None	None	Light	75.9
SQUIRREL DEN RD	DOGWOOD LN	FAIRFOREST DR	0.11	P	0	3	1	0	Light	None	None	None	None	None	Light	72.6
SQUIRREL DEN RD	FAIRFOREST DR	IVY DR	0.29	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
ST HELENA DR	RAILROAD AVE	END OF ROAD	0.01	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
SUNSET ST	RAILROAD AVE	END OF ROAD	0.06	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
TANNER ST	CALLAHAN ST	FREEMAN ST	0.08	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
TANNER ST	FREEMAN ST	HODGE ST	0.14	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
TANNER ST	HODGE ST	S MAIN ST	0.23	P	4	5	0	1	Light	Light	None	None	None	None	Light	53.5
TAYLOR ST	E 3RD ST	E COURT ST	0.15	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
THOMAS ST	FAIRWAY DR	ANNE ST	0.07	P	9	0	0	1	Light	None	None	None	None	None	Light	75.0
TRADE ST	N MAIN ST	S WASHINGTON ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
TWITTY FORD RD	DR HENRY NORRIS DR	HOSPITAL DR	0.10	P	6	3	0	1	Light	None	None	None	None	None	Light	65.1
W 1ST ST	N WASHINGTON ST	CENTRAL ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W 2ND ST	N WASHINGTON ST	CENTRAL ST	0.06	P	9	1	0	0	Light	None	None	None	None	None	None	91.7
W 2ND ST	CENTRAL ST	N. MAIN ST	0.03	p	10	0	0	0	None	None	None	None	None	None	None	100.0
W 3RD ST	N HILLSIDE ST	N. RIDGECREST ST	0.12	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
W 3RD ST	N HILLSIDE ST	N MITCHELL ST	0.07	P	9	0	1	0	Moderate	None	None	None	None	None	Light	72.5
W 3RD ST	N MITCHELL ST	N WASHINGTON ST	0.13	P	9	1	0	0	Light	None	None	None	Light	None	Light	81.7
W 3RD ST	N WASHINGTON ST	N MAIN ST	0.09	P	4	6	0	0	Moderate	None	None	None	None	None	Light	60.2
W 4TH ST	N WASHINGTON ST	END OF ROAD	0.05	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
W 4TH ST	N WASHINGTON ST	N MAIN ST	0.09	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
W 5TH ST	N MAIN ST	N WASHINGTON ST	0.09	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
W 5TH ST	N WASHINGTON ST	END OF ROAD	0.12	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
W 6TH ST	N WASHINGTON ST	END OF ROAD	0.11	P	9	1	0	0	Light	None	None	None	Light	None	Light	81.7
W 6TH ST	N WASHINGTON ST	N MAIN ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
W 7TH ST	N MAIN ST	N WASHINGTON ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W COURT ST	S RIDGECREST AVE	N MERIDIAN ST	0.17	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W COURT ST	S MERIDIAN ST	N MITCHELL ST	0.09	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
W COURT ST	N MITCHELL ST	N MAIN ST	0.22	P	7	1	2	0	Moderate	None	None	None	None	None	Light	61.7
WALLACE ST	ALLEN ST (RR)	END OF ROAD	0.09	P	7	2	0	1	Light	None	None	None	None	None	Light	68.4
WALNUT CT	GENERAL GRIFFITH CR	END OF ROAD	0.03	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
WEST VIEW ST	S RIDGECREST AVE	Town Limit	0.23	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WHITE OAK DR	US 221	END OF ROAD	0.17	P	7	1	2	0	Light	None	None	None	None	None	Light	71.7
WILSON ST	N WASHINGTON ST	N RIDGECREST AVE	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WOODBRIAR LN	HONEYSUCKLE DR	IVY DR	0.18	P	3	7	0	0	Light	None	None	None	None	None	Light	66.9
WOODLAND CIR	EDWARDS ST	END OF ROAD	0.20	P	4	2	2	2	Light	None	None	None	None	None	Light	54.0

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
WOODLAND DR	HUTCHINS DR	END OF ROAD	0.09	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WOODRIDGE DR	BOB HARDIN RD	BEECHTREE CIR	0.26	P	1	9	0	0	None	None	None	None	None	None	Light	65.3
WOODRIDGE DR	BEECHTREE CIR	END OF ROAD	0.12	P	3	6	0	1	None	None	None	None	None	None	Light	62.5
		TOTAL MILEAGE	31.93													

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
HILLTOPPER CT	NEW PAVEMENT	GREENWAY TRACE	0.28	P	10	0	0	0	None	None	None	None	None	None	None	100.0
W 2ND ST	CENTRAL ST	N. MAIN ST	0.03	p	10	0	0	0	None	None	None	None	None	None	None	100.0
ST HELENA DR	RAILROAD AVE	END OF ROAD	0.01	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
JAMESFIELD DR	CHIMNEY ROCK RD	END OF ROAD	0.22	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
CARRIAGE DR	JAMESFIELD DR	END OF ROAD	0.06	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
W 5TH ST	N WASHINGTON ST	END OF ROAD	0.12	P	10	0	0	0	None	None	None	None	None	None	Light	95.0
RAVENWOOD ST	E 2ND ST	END OF ROAD	0.22	P	9	1	0	0	None	None	None	None	None	None	Light	91.7
W 2ND ST	N WASHINGTON ST	CENTRAL ST	0.06	P	9	1	0	0	Light	None	None	None	None	None	None	91.7
CHERRY MTN ST	E 2ND ST	RAILROAD AVE	0.19	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
OLD CHARLOTTE RD	CHARLOTTE RD	END OF ROAD	0.09	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
N CLEGHORN ST	E COURT ST	E 2ND ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
N CLEGHORN ST	E 2ND ST	GREEN ST	0.35	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
ELM ST	GREEN ST	BRANCH ST	0.20	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
ELM ST	BRANCH ST	N CLEGHORN ST	0.13	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
GREEN ST	N MAIN ST	N CLEGHORN ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
SPARKS ST	GREEN ST	END OF ROAD	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
GRACE ST	GREEN ST	OAK ST	0.12	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CEDAR ST EXT	CEDAR ST	END OF ROAD	0.08	P	10	0	0	0	None	Light	None	None	None	None	Light	90.0
CRESCENT ST	CEDAR LN	SASSAFRAS RD	0.16	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
PINE ST	S MERIDIAN ST	S RIDGECREST AVE	0.16	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W COURT ST	S RIDGECREST AVE	N MERIDIAN ST	0.17	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W 1ST ST	N WASHINGTON ST	CENTRAL ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
S MITCHELL ST	PINE ST	W COURT ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
W 7TH ST	N MAIN ST	N WASHINGTON ST	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CEMETERY DR	CEMETARY DR SOUTH LOOP WEST	CEMETARY DR SOUTH LOOP MID	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CEMETERY DR	CEMETARY DR SOUTH LOOP EAST	CEMETARY DR	0.06	P	10	0	0	0	None	Light	None	None	None	None	Light	90.0
CEMETERY DR	CEMETARY DR	N MAIN ST	0.07	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
S RIDGECREST AVE	EDWARDS ST	CALLAHAN ST	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CALLAHAN ST	S RIDGECREST AVE	TANNER ST	0.22	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
AZALEA DR	EDWARDS ST	END OF ROAD	0.11	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
FOREST HILL CIR	EDWARDS ST	FOREST HILL CIR	0.06	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
HONEYSUCKLE DR	IVY DR	WOODBRIAR LN	0.09	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
HONEYSUCKLE DR	WOODBRIAR LN	EDWARDS ST	0.48	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
CRICKET CREEK DR	EDWARDS ST EXT	END OF ROAD	0.13	P	10	0	0	0	Light	None	None	None	None	None	Light	90.0
HICKORY ST	CHIMNEY ROCK RD	N WASHINGTON ST	0.16	P	8	2	0	0	None	None	None	None	None	None	Light	88.4
RHODODENDRON DR	FOREST HILL CIR	END OF ROAD	0.09	P	8	2	0	0	None	None	None	None	None	None	Light	88.4
S CLEGHORN ST	CHARLOTTE RD	END OF ROAD	0.12	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
MOUNTAIN DR	E 2ND ST	END OF ROAD	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
E 2ND ST	RAVENWOOD ST	N CLEGHORN ST	0.20	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N CLEGHORN ST	E COURT ST	CHARLOTTE RD	0.11	C	9	1	0	0	Light	None	None	None	None	None	Light	86.7
COWAN ST	E COURT ST	E 2ND ST	0.11	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
LEVI ST	E 2ND ST	E COURT ST	0.10	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
COLLETT ST	HUTCHINS DR	RAILROAD AVE	0.29	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
ALLEN ST (RR)	NORTH ST	COLLETT ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
ALLEN ST (RR)	NORTH ST	GREEN ST	0.07	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
GREEN ST	SPARKS ST	RAILROAD AVE	0.13	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
GREEN ST	SPARKS ST	GRACE ST	0.07	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
OAK ST	REECE ST	GRACE ST	0.08	P	0	1	0	0	Light	None	None	None	None	None	Light	86.7
RIDGELAND DR	SASSAFRAS RD	CEDAR LN	0.32	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
CENTRAL ST	W 2ND ST	TRADE ST	0.14	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
TRADE ST	N MAIN ST	S WASHINGTON ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N HILLSIDE ST	W COURT ST	W 3RD ST	0.14	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
N MITCHELL ST	W COURT ST	W 3RD ST	0.15	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
W 6TH ST	N WASHINGTON ST	N MAIN ST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
CEMETERY DR	CLARKE DR	CEMETARY DR SOUTH LOOP WEST	0.11	P	9	1	0	0	None	Light	None	None	None	None	Light	86.7
CEMETERY DR	CEMETARY DR SOUTH LOOP MID	CEMETARY DR SOUTH LOOP EAST	0.09	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
HILL ST	GRAYSON DR	END OF ROAD	0.03	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
PARKWAY DR	S MAIN ST	PARK ST	0.42	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
FREEMAN ST	HODGE ST	TANNER ST	0.10	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
QUAIL HILLS DR	EDWARDS ST	PARTRIDGE LN	0.12	P	9	1	0	0	Light	None	None	None	None	None	Light	86.7
GENERAL GRIFFITH CR	GRAY CT	GENERAL GRIFFITH CR	0.06	P	7	3	0	0	None	None	None	None	None	None	Light	85.1
GREEN ST	GRACE ST	CEDAR ST	0.23	P	10	0	0	0	Light	None	None	None	Light	None	Light	85.0
E COURT ST	LEVI ST	N CLEGHORN ST	0.21	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
COLLETT ST	ELM ST	HUTCHINS DR	0.37	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WOODLAND DR	HUTCHINS DR	END OF ROAD	0.09	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
SUNSET ST	RAILROAD AVE	END OF ROAD	0.06	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
HARLEY DR	US 221	END OF ROAD	0.24	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CEDAR LN	US 221	OLD US 221	0.33	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
SASSAFRAS RD	CEDAR LN	RIDGELAND DR	0.25	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WILSON ST	N WASHINGTON ST	N RIDGECREST AVE	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
GABRIEL ST	N MERIDIAN ST	TOWN LIMIT	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
S MERIDIAN ST	W COURT ST	PINE ST	0.12	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
WEST VIEW ST	S RIDGECREST AVE	Town Limit	0.23	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
MONFREDO ST	MAPLE ST	S RIDGECREST AVE	0.39	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
S HILLSIDE ST	MONFREDO ST	MAPLE ST	0.06	P	0	2	0	0	Light	None	None	None	None	None	Light	83.4
W 4TH ST	N WASHINGTON ST	END OF ROAD	0.05	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
LEROY MULL DR	DR HENRY NORRIS DR	END OF ROAD	0.10	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CRESTVIEW ST	HALL ST	PATTON ST	0.05	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
CRESTVIEW ST	PARKWAY DR	EDWARDS ST	0.09	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
MARY'S LN	EDWARDS ST	END OF ROAD	0.14	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
COUNTRY WOODS DR	EDWARDS ST EXT	SEVEN OAKS LN	0.22	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
BENT CREEK DR	RIDGEVIEW DR	END OF ROAD	0.36	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
SOUTHRIDGE DR	WOODRIDGE DR	TOWN LIMIT	0.13	P	8	2	0	0	Light	None	None	None	None	None	Light	83.4
N MERIDIAN ST	N RIDGECREST AVE	GABRIEL ST	0.32	P	9	0	1	0	Light	None	None	None	None	None	Light	82.5
HARRIS ST	S MAIN ST	MONFREDO ST	0.22	P	9	0	1	0	Light	None	None	None	None	None	Light	82.5
BEECHTREE CIR	173 BEECHTREE CIR	WOODRIDGE DR	0.17	P	6	4	0	0	None	None	None	None	None	None	Light	81.8

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
W 3RD ST	N MITCHELL ST	N WASHINGTON ST	0.13	P	9	1	0	0	Light	None	None	None	Light	None	Light	81.7
W 6TH ST	N WASHINGTON ST	END OF ROAD	0.11	P	9	1	0	0	Light	None	None	None	Light	None	Light	81.7
GENERAL GRIFFITH CR	S MAIN ST	GENERALGRIFFITH CR	0.07	P	7	2	1	0	None	None	None	None	None	None	Light	80.9
E 2ND ST	RAILROAD AVE	CHERRY MTN ST	0.13	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
E 2ND ST	MOUNTAIN DR	RAVENWOOD ST	0.27	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BRANCH ST	ELM ST	END OF ROAD	0.07	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
W 5TH ST	N MAIN ST	N WASHINGTON ST	0.09	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
FROSTY LN	CALLAHAN ST	EDWARDS ST	0.04	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
TANNER ST	FREEMAN ST	HODGE ST	0.14	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
FAIRFOREST DR	SQUIRREL DEN RD	FAIRFOREST DR	0.59	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
IVY DR	SQUIRREL DEN RD	DOGWOOD LN	0.11	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
DOGWOOD LN	FOREST HILL CIR	SQUIRREL DEN RD	0.20	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
IVY DR	WOODBRIAR LN	HONEYSUCKLE DR	0.19	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BRIARWOOD DR	BRIARWOOD DR	BRIGHTMOOR CIR	0.08	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BRIGHTMOOR CIR	BRIARWOOD DR	RIDGEVIEW DR	0.23	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
RIDGEVIEW DR	BRIGHTMOOR CIR	BRIARWOOD DR	0.07	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
RIDGEVIEW DR	BRIGHTMOOR CIR	EDWARDS ST EXT	0.45	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
BEECHTREE CIR	WOODRIDGE DR	173 BEECHTREE CIR	0.18	P	7	3	0	0	Light	None	None	None	None	None	Light	80.1
HILLTOPPER CT	SKYLINE DR	NEW PAVEMENT	0.07	P	7	3	0	0	None	Light	None	None	None	None	Light	80.1
TAYLOR ST	E 3RD ST	E COURT ST	0.15	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
N TOMS ST	E COURT ST	E 3RD ST	0.15	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
PINE ST	S MITCHELL ST	S MERIDIAN ST	0.09	P	10	0	0	0	Moderate	None	None	None	None	None	Light	80.0
KEETER ST	END OF ROAD	RAILROAD AVE	0.09	P	8	1	1	0	None	None	None	None	None	Severe	Light	79.2
HUTCHINS DR	WOODLAND DR	END OF ROAD	0.15	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
LYNCH ST	CHERRY KNOLL DR	END OF ROAD	0.08	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
PATTON ST	CRESTVIEW ST	TANNER ST	0.05	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
ANNE ST	THOMAS ST	END OF ROAD	0.22	P	8	1	1	0	Light	None	Light	None	None	None	Light	79.2
FOREST HILL CIR	IVY DR	FOREST HILL CIR	0.09	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
COUNTRY WOODS DR	SEVEN OAKS LN	BRIARWOOD DR	0.16	P	8	1	1	0	Light	None	None	None	None	None	Light	79.2
AMBER OAKS DR	THOMPSON RD	END OF MEDIAN	0.20	P	8	2	0	0	Light	None	None	None	None	Severe	Light	78.4
BENTON LN	GABRIEL ST	END OF ROAD	0.13	P	8	2	0	0	Light	None	None	None	None	Severe	Light	78.4
LYNCH ST	BUTLER ST	CHERRY KNOLL DR	0.10	P	8	2	0	0	Light	None	None	None	Light	None	Light	78.4
E 2ND ST	CHERRY MTN ST	MOUNTAIN DR	0.16	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
REECE ST	SOUTHERN ST	END OF ROAD	0.42	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
N MERIDIAN ST	GABRIEL ST	W COURT ST	0.24	P	0	4	0	0	Light	None	None	None	None	None	Light	76.8
N MITCHELL ST	W 3RD ST	END OF ROAD	0.09	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
W 4TH ST	N WASHINGTON ST	N MAIN ST	0.09	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
CREEKVIEW DR	CRICKET CREEK DR	END OF ROAD	0.04	P	6	4	0	0	Light	None	None	None	None	None	Light	76.8
GREEN ST	CEDAR ST	N CLEGHORN ST	0.13	P	9	1	0	0	Moderate	None	None	None	None	None	Light	76.7
WALNUT CT	GENERAL GRIFFITH CR	END OF ROAD	0.03	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
NORTH ST	RAILROAD AVE	ALLEN ST (RR)	0.08	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
TANNER ST	CALLAHAN ST	FREEMAN ST	0.08	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
HODGE ST	CRESTVIEW ST	TANNER ST	0.07	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
SQUIRREL DEN RD	FOREST HILL CIR	DOGWOOD LN	0.15	P	0	2	1	0	Light	None	None	None	None	None	Light	75.9
IVY DR	330 IVY DR	WOODBRIAR LN	0.14	P	7	2	1	0	Light	None	None	None	None	None	Light	75.9
THOMAS ST	FAIRWAY DR	ANNE ST	0.07	P	9	0	0	1	Light	None	None	None	None	None	Light	75.0
DETER ST	E MOUNTAIN ST	END OF ROAD	0.19	P	0	5	0	0	Light	None	None	None	None	None	Light	73.5
PARK ST	PARKWAY DR	CRESTVIEW ST	0.08	P	8	2	0	0	Moderate	None	None	None	None	None	Light	73.4
OAK ST	GRACE ST	REECE ST	0.13	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
AMBER OAKS DR	293 AMBER OAK DR	END OF ROAD	0.24	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
W COURT ST	S MERIDIAN ST	N MITCHELL ST	0.09	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
W 3RD ST	N HILLSIDE ST	N. RIDGECREST ST	0.12	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
GRAYSON DR	N MAIN ST	END OF ROAD	0.30	P	0	3	1	0	Light	None	None	None	None	None	Light	72.6
FOREST HILL CIR	FOREST HILL CIR	FAIRWAY DR	0.23	P	6	3	1	0	Light	None	None	None	None	None	Light	72.6
SQUIRREL DEN RD	DOGWOOD LN	FAIRFOREST DR	0.11	P	0	3	1	0	Light	None	None	None	None	None	Light	72.6
W 3RD ST	N HILLSIDE ST	N MITCHELL ST	0.07	P	9	0	1	0	Moderate	None	None	None	None	None	Light	72.5
GREENWAY TRACE	SKYLINE DR	END OF ROAD	0.05	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
WHITE OAK DR	US 221	END OF ROAD	0.17	P	7	1	2	0	Light	None	None	None	None	None	Light	71.7
S HILLSIDE ST	MAPLE ST	PINE ST	0.11	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
S HILLSIDE ST	PINE ST	W COURT ST	0.17	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
S MITCHELL ST	MAPLE ST	PINE ST	0.14	P	8	1	0	1	Light	None	None	None	None	None	Light	71.7
SIMPSON ST	TANNER ST	HODGE ST	0.10	P	0	1	0	1	Light	None	None	None	None	None	Light	71.7
E 7TH ST	N TOMS ST	N MAIN ST	0.05	P	4	5	1	0	None	None	None	None	None	None	Light	71.0
E 1ST ST	N MAIN ST	N CLEGHORN ST	0.14	P	7	3	0	0	Moderate	None	None	None	None	None	Light	70.1
SKYLINE DR	S MAIN ST	GREENWAY TRACE	0.12	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
HOSPITAL DR	TWITTY FORD RD	EDWARDS ST	0.06	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
SQUIRREL DEN RD	FAIRFOREST DR	IVY DR	0.29	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
BRIARWOOD DR	BRIGHTMOOR CIR	BRIARWOOD DR	0.26	P	5	4	1	0	Light	None	None	None	None	None	Light	69.3
E 2ND ST	N CLEGHORN ST	N MAIN ST	0.13	P	8	1	1	0	Moderate	None	None	None	None	None	Light	69.2
ARNETT ST	E 2ND ST	END OF ROAD	0.30	P	8	2	0	0	Light	None	None	Light	None	Severe	Light	68.4
E COURT ST	OLD CHARLOTTE RD	LEVI ST	0.14	P	0	2	0	1	Light	None	None	None	None	None	Light	68.4
WALLACE ST	ALLEN ST (RR)	END OF ROAD	0.09	P	7	2	0	1	Light	None	None	None	None	None	Light	68.4
HARDIN ST	HARDIN ST EXT	SOUTH ST	0.08	P	6	2	2	0	Light	None	None	None	None	None	Light	68.4
WOODBRIAR LN	HONEYSUCKLE DR	IVY DR	0.18	P	3	7	0	0	Light	None	None	None	None	None	Light	66.9
SKYLINE DR	GREENWAY TRACE	END OF ROAD	0.19	P	4	4	2	0	None	None	None	None	None	None	Light	66.8
CEDAR ST	GREEN ST	COLLETT ST	0.14	P	6	4	0	0	Moderate	None	None	None	None	None	Light	66.8
WOODRIDGE DR	BOB HARDIN RD	BEECHTREE CIR	0.26	P	1	9	0	0	None	None	None	None	None	None	Light	65.3
CLARKE DR	GREEN ST	CEMETERY DR	0.07	P	6	3	0	1	None	None	None	None	Light	None	Light	65.1
TWITTY FORD RD	DR HENRY NORRIS DR	HOSPITAL DR	0.10	P	6	3	0	1	Light	None	None	None	None	None	Light	65.1
HARDIN ST	LYNCH ST	HARDIN ST EXT	0.15	P	5	3	2	0	Light	None	None	None	None	None	Light	65.1
HODGE ST	TANNER ST	CALLAHAN ST	0.28	P	5	3	2	0	Light	None	None	None	None	None	Light	65.1
FOREST HILL CIR	SQUIRREL DEN RD	DOGWOOD LN	0.14	P	6	3	0	1	Light	None	None	None	None	None	Light	65.1
FAIRWAY DR	FOREST HILL CIR	THOMAS ST	0.27	P	7	1	1	1	Light	None	None	None	None	None	Light	64.2
PARTRIDGE LN	QUAIL HILLS DR	END OF ROAD	0.08	P	7	1	1	1	Light	None	None	None	None	None	Light	64.2
RECREATION ST	COWAN ST	LEVI ST	0.16	P	2	8	0	0	Light	None	None	None	None	None	Light	63.6
BRIARWOOD DR	COUNTRY WOODS DR	HONEYSUCKLE DR	0.24	P	2	8	0	0	Light	None	None	None	None	None	Light	63.6

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
CRESTVIEW ST	PARK ST	HALL ST	0.14	P	0	2	0	1	Light	None	None	None	Light	None	Light	63.4
HUTCHINS DR	COLLETT ST	WOODLAND DR	0.06	P	5	3	1	1	None	None	None	None	None	None	Light	62.6
WOODRIDGE DR	BEECHTREE CIR	END OF ROAD	0.12	P	3	6	0	1	None	None	None	None	None	None	Light	62.5
AMBER OAKS DR	END OF MEDIAN	293 AMBER OAK DR	0.20	P	0	10	0	0	None	None	None	None	None	None	Light	62.0
W COURT ST	N MITCHELL ST	N MAIN ST	0.22	P	7	1	2	0	Moderate	None	None	None	None	None	Light	61.7
GENERAL GRIFFITH CR	WALNUT CT	BECHTLER CT	0.07	P	4	4	1	1	None	None	None	None	None	None	Light	61.6
E 3RD ST	N MAIN ST	N CLEGHORN ST	0.13	P	6	2	1	1	Light	None	None	None	None	None	Light	60.9
CEMETERY DR	CEMETARY DR NORTH LOOP MID LOOP	CEMETARY DR	0.10	P	6	2	1	1	Light	None	None	None	None	None	Light	60.9
W 3RD ST	N WASHINGTON ST	N MAIN ST	0.09	P	4	6	0	0	Moderate	None	None	None	None	None	Light	60.2
CARPENTER LN	N MITCHELL ST	END OF ROAD	0.16	P	2	0	4	0	Light	None	None	None	None	None	Light	60.0
SEVEN OAKS LN	COUNTRY WOODS DR	END OF ROAD	0.08	P	0	9	0	1	None	None	None	None	None	None	Light	59.5
CALLAHAN ST	TANNER ST	END OF ROAD	0.13	P	4	5	0	1	Light	None	None	None	None	None	Light	58.5
CEMETERY DR	CEMETARY DR	CEMETARY DR NORTH LOOP MID	0.11	P	6	2	0	2	Light	None	None	None	None	None	Light	58.0
LOWER CLUBHOUSE DR	CLUBHOUSE DR	CLUBHOUSE DR	0.06	P	6	2	0	2	Light	None	None	None	None	None	Light	58.0
LYNCH ST	S MAIN ST	BUTLER ST	0.07	P	4	3	3	0	Light	None	None	None	None	None	Light	57.6
FOREST HILL CIR	IVY DR	FOREST HILL CIR	0.20	P	5	3	1	1	Light	None	None	None	None	None	Light	57.6
IVY DR	SQUIRREL DEN RD	330 IVY DR	0.32	P	4	3	3	0	Light	None	None	None	None	None	Light	57.6
FREEMAN ST	HODGE ST	END OF ROAD	0.09	P	9	0	1	0	Severe	None	None	None	None	None	Light	57.5
GENERAL GRIFFITH CR	JORDAN LN	ST JOHN'S ST	0.05	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
GENERAL GRIFFITH CR	ST JOHNS ST	WALNUT CT	0.10	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
GENERAL GRIFFITH CR	BECHTLER CT	GRAY CT	0.06	P	0	10	0	0	Light	None	None	None	None	None	Light	57.0
RUSSELL DR	S MAIN ST	END OF ROAD	0.12	P	4	3	2	1	Light	None	None	None	None	None	Light	57.0
JUSTICE DR	W MOUNTAIN ST	END OF ROAD	0.13	P	5	3	0	2	Light	None	None	None	None	None	Light	57.0
ANNE ST	THOMAS ST	FAIRWAY DR	0.15	P	4	4	1	1	Light	None	None	None	None	None	Light	56.6
GENERAL GRIFFITH CR	GENERALGRIFFITH CR	JORDAN LN	0.21	P	2	7	0	1	Light	None	None	None	None	None	Light	56.5
CARNEGIE RD	N MAIN ST	END OF ROAD	0.13	P	0	2	1	2	Light	None	None	None	None	None	Light	56.0
CLUBHOUSE DR	INNER LOOP	OUTER LOOP	0.33	P	5	2	1	2	Light	None	None	None	None	None	Light	56.0
SOUTH ST	HARDIN ST	TANNER ST	0.09	P	5	2	1	2	Light	None	None	None	None	None	Light	56.0
E COURT ST	S MAIN ST	N CLEGHORN ST	0.14	P	5	3	2	0	Moderate	None	None	None	None	None	Light	55.1
WOODLAND CIR	EDWARDS ST	END OF ROAD	0.20	P	4	2	2	2	Light	None	None	None	None	None	Light	54.0
TANNER ST	HODGE ST	S MAIN ST	0.23	P	4	5	0	1	Light	Light	None	None	None	None	Light	53.5
E 4TH ST	N MAIN ST	N TOMS ST	0.05	P	7	2	0	1	Moderate	None	None	None	None	Severe	Light	53.4
CRESTVIEW ST	PARKWAY DR	PARK ST	0.24	P	4	3	1	1	Light	None	None	None	Light	None	Light	52.6
SOUTHERN ST	GREEN ST	TOWN LIMIT	0.56	P	4	2	0	4	Light	None	None	None	None	None	Light	52.0
HALL ST	CRESTVIEW ST	END OF ROAD	0.10	P	0	2	1	1	Moderate	None	None	None	None	None	Light	50.9
BUTLER ST	LYNCH ST	END OF ROAD	0.16	P	8	1	1	0	Light	Severe	None	None	None	None	Light	49.2
PARKWAY DR	PARK ST	CRESTVIEW ST	0.14	P	2	0	5	3	Light	None	None	None	None	None	Light	47.0
N TOMS ST	E 3RD ST	E 7TH ST	0.19	P	2	5	3	0	Moderate	None	None	None	None	None	Light	45.6
QUAIL HILLS DR	PARTRIDGE LN	END OF ROAD	0.10	P	0	7	3	0	Moderate	None	None	None	None	None	Light	43.6
BECHTLER CT	GENERAL GRIFFITH CR	END OF ROAD	0.03	P	0	5	5	0	Moderate	None	None	None	None	None	Light	43.0
DETER ST EXT	DETER ST	SOUTHERN ST	0.10	P	0	5	5	0	Moderate	None	None	None	None	None	Light	43.0
GRAY CT	GENERAL GRIFFITH CR	END OF ROAD	0.06	P	0	4	6	0	Moderate	None	None	None	None	None	Light	42.0
EXECUTIVE DR	CHARLOTTE RD	END OF ROAD	0.09	P	1	3	4	2	Moderate	None	None	None	None	None	Light	39.0

Street Name	Begin Location	End Location	Mileage	Pave Type	Allig None	Allig Light	Allig Mod	Allig Sev	Trans N,L,M,S	Rut N,L,M,S	Ravel N,L,M,S	Bleed N,L,M,S	Patch N,L,M,S	Oxid N,S	Ride N,L,M,S	Rating
LAUREL DR	LAUREL HILL DR	END OF PAVEMENT	0.01	P	5	0	1	4	Moderate	None	None	None	Moderate	None	Moderate	27.0
COWAN ST	E 2ND ST	END OF PAVEMENT	0.05	P	0	3	3	4	Moderate	None	None	None	None	None	Severe	25.0
HARPER ST	TRYON RD	END OF ROAD	0.06	P	0	2	4	4	Severe	None	None	None	None	None	Moderate	14.0
		TOTAL MILEAGE	31.93													

APPENDIX C: PAVEMENT MAINTENANCE ACTIVITIES

This appendix discusses some common pavement maintenance activities.

Chip Seals

Chip seal is a two-step process that includes first an application of asphalt emulsion and then a layer of crushed rock to an existing asphalt pavement surface. A chip seal gets its name from the “chips” or small crushed rock placed on the surface.

Asphalt emulsions used in chip seal applications contain globules of paving asphalt, water, an “emulsifying agent” or surfactant, polymer, and sometimes a “rejuvenator.” Soap is a common form of surfactant. In washing clothes or dishes, the surfactant helps remove the dirt and suspend the dirt particles in the wash water. Similarly, in asphalt emulsions, the surfactant keeps the paving asphalt globules in suspension until it is applied to the pavement surface when the water in the asphalt emulsion starts to evaporate. The chips (small, crushed rocks) are immediately applied after the asphalt emulsion is applied to the pavement surface. The polymer in the asphalt emulsion is a “hardener” which serves to improve the adhesion to the crushed rock and the pavement surface. A “rejuvenator” is an asphalt or additive which when applied to the existing pavement will slightly soften the pavement it is applied to creating a better bond.

Crack Sealing

Crack sealing is one of the most important asphalt maintenance activities. Crack sealing keeps water from getting into the road base. Water weakens the road base and allows fatigue damage to progress. Crack sealing also keeps incompressible material from getting into cracks and widening them.

Hairline cracks are less than $\frac{1}{4}$ inches wide. Hairline cracks are often ignored in maintenance until they begin to form a network covering a wide area. Once a network of cracks forms it is advisable to treat the area with a chip seal or slurry seal. Small cracks (between $\frac{1}{4}$ “and $\frac{3}{4}$ ” wide) should be routed out, cleaned and sealed. Routing the crack ensures that the crack is fully penetrated and that there is a good bond between the sealant and the existing asphalt. Medium cracks ($\frac{3}{4}$ ” wide to 1” wide) should be cleaned and sealed. Cracks deeper than $\frac{3}{4}$ ” deep may need a backer rod installed. Cracks more than 1” wide should be filled with an asphalt slurry or finely graded hot mix asphalt. (Medium and larger cracks with spalling may need patching).

Full Depth Patching

A full depth patch is a permanent pavement repair compared to a skin patch which is a temporary repair. Full depth patching removes all the material (asphalt, stone, and soil) from a failed area in the pavement and replaces it with asphalt. Full depth patches should be about 1

foot wider than the area to be replaced and either square or rectangular. In addition, two of the four sides should be parallel to the direction of travel.

Skin Patching

Skin patching is a temporary repair and should only be used on pavements more than four inches deep. Skin patching is often used to repair slip cracks, minor rutting, washboard cracks. Skin patching can also be used as a temporary fix for alligator cracking.

Mill and Fill

A mill and fill preservation removes the existing surface layer with a milling machine and then transporting the material to a storage facility. New asphalt is then used to replace the milled location, adding 10 to 12 years of life to the road surface. Milling can also remove distresses from the surface, providing a better driving experience and/or longer roadway life.

Resurfacing

Pavement resurfacing is a process on installing a new layer of asphalt over the existing pavement. The new layer is generally 1.5-2 inches in depth.

Root Pruning



Figure 5 Root Damage

Street trees add to neighborhood appeal and help keep neighborhoods cooler in the summer. These contributions can come with a cost. Occasionally tree roots will cause pavement to buckle as shown in the figure at to the left. Tree roots can also attack parking lot pavement and sidewalks.

Small roots (less than 2 inches in diameter) can be cut or trimmed. Once the small

roots are cut off a root barrier (1 foot deep and 6 feet long) can be installed to minimize or slow root progress. The cut should be between three and five times the diameter of the trunk away from the trunk. For larger roots it is better to remove the pavement over the root, dig a trench beneath the root and backfill with soft material to encourage the root to expand downward. Root pruning stresses trees, especially older trees. The best time to prune tree roots is winter and early spring. JMTE recommends that root pruning be supervised by a professional arborist.

APPENDIX D: PROPOSED PAVEMENT DESIGNS FOR RECONSTRUCTION & REPAIR

Below are suggested pavement designs for low-volume residential streets. The pavement designs are based upon the AASHTO soil classification system (AASHTO Soil Classification System 2021). The user should choose the pavement design based upon the soil group. Group I soils are sands and gravels. Group II soils are silts and clays, depending on subgrade soil type. The municipality may need a subgrade soil test to determine the soil classification type. Heavier pavement designs may be needed depending upon the street type and the expected truck percentage. A prime (tack) coat may be required on ABC. Shown below are minimum thicknesses of base and surface course to be used. Nor should a base course be placed on muck, pipe clay, organic matter or other unsuitable material.

In this case reconstruction would involve removing the pavement, establishing a cross section consistent with NCDOT's Subdivision Roads Manual (Subdivision Roads: Minimum Construction Standards Revised December 2020)

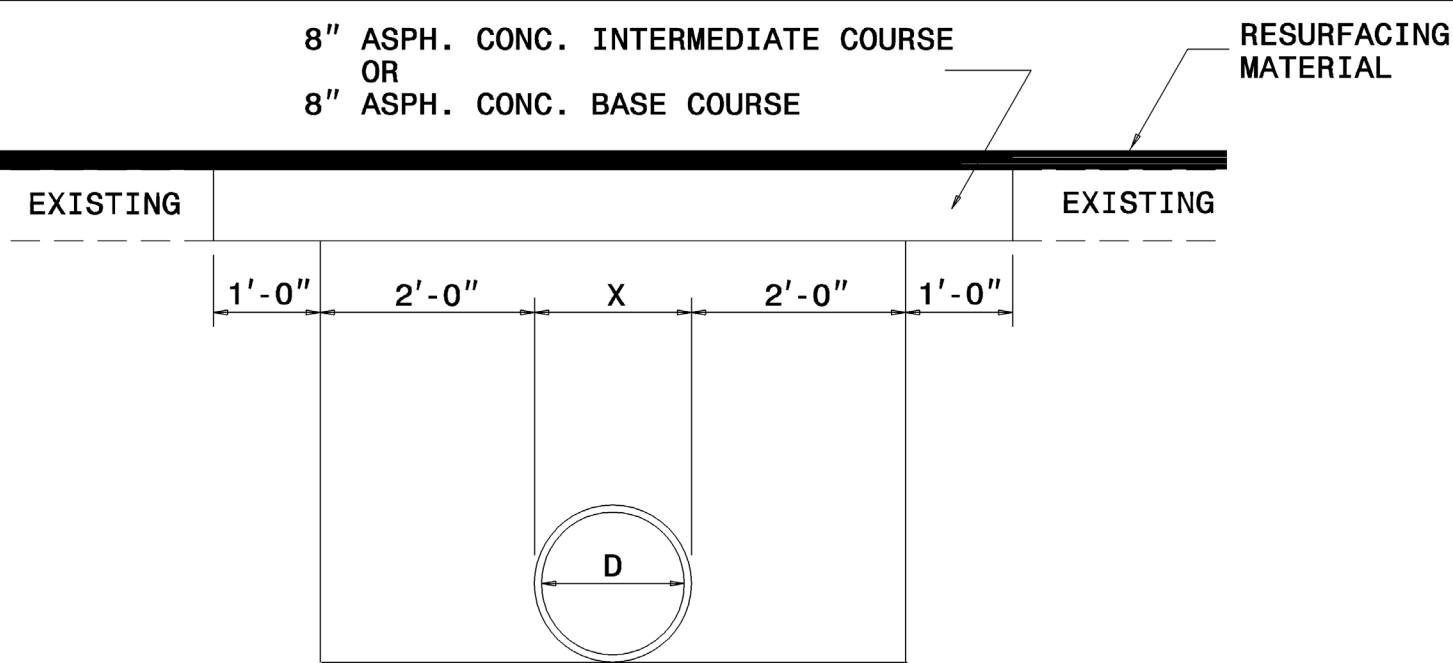
Soil Group	Soil Type	Base Course	Surface Course
Group I Soils (Sand/Gravel) < 50% passing a #200 sieve	A-1-a, A-1-b, A-3	7" STBC, Type A or C	2" SF9.5A S9.5B(1 layer)
	A-2-4, A-2-5, A-2-6,	9" STBC, Type A or C	1 ½" SF9.5A
	A-2-7	8" ABC or STBC, Type	AST
		B6" ABC or STBC, Type B	1 ½" SF9.5A or S9.5B
		3" B25.0B	1 ½" SF9.5A or S9.5B
		4" ABC	5" Jointed Concrete
Group II (Silt/Clay) >50% passing a #200 sieve	A-44. A-5, A-6	9" STBC, Type A or C	2" SF9.5A (1 layer) or S9.5B
	A-7-5, or A-7-6	8" ABC or STBC, Type B	1 ½" SF9.5A, or S9.5B
		10" ABC or STBC, Type B	AST
		4" B25.0B	1 ½" SF9.5A, or S9.5B
		4" ABC	6" Jointed Concrete

STATE OF NORTH CAROLINA
DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
RALEIGH, N.C.

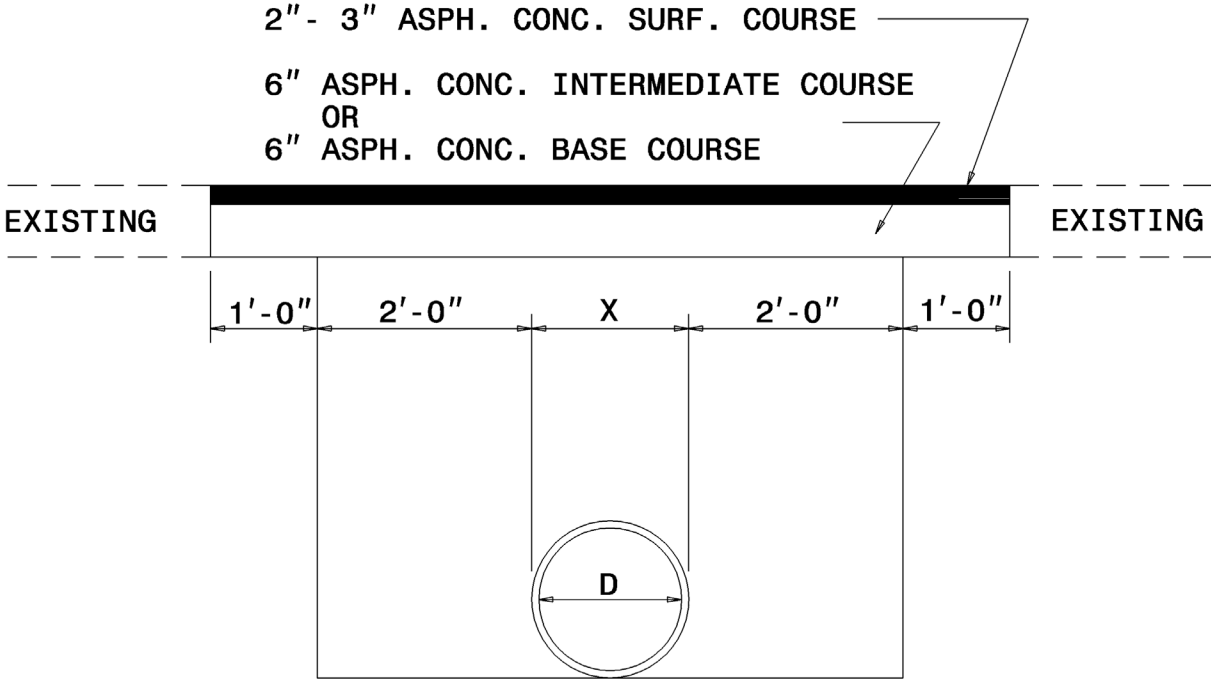
7-06

ENGLISH STANDARD DRAWING FOR
PAVEMENT REPAIRS
FOR SUPERPAVE MIX TYPES

D	X	W
12"	1'-4"	7'-4"
15"	1'-7"	7'-7"
18"	1'-10"	7'-10"
24"	2'-6"	8'-6"
30"	3'-1"	9'-1"
36"	3'-8"	9'-8"
42"	4'-5"	10'-5"
48"	5'-0"	11'-0"



PAVEMENT REPAIRS ON ROADS TO BE RESURFACED
(PIPE IS PLACED UNDER EXISTING PAVEMENT)



PAVEMENT REPAIRS ON ROADS NOT TO BE RESURFACED
(PIPE IS TO BE PLACED UNDER EXISTING PAVEMENT)

STATE OF NORTH CAROLINA
DEPT. OF TRANSPORTATION
DIVISION OF HIGHWAYS
RALEIGH, N.C.

7-06

ENGLISH STANDARD DRAWING FOR
PAVEMENT REPAIRS
FOR SUPERPAVE MIX TYPES

APPENDIX E: CREATING A DECISION MATRIX

Decision-making is a costly high-energy activity. A decision matrix is a tool that can lower the cost of making decisions, improve their quality, ensure consistent application of decision-making criteria by a group of raters and create a record of how the decision was made. A decision matrix can help stakeholders clearly and objectively make decisions. A decision matrix (or grid) can:

- Reduce decision fatigue,
- Reduce subjectivity in decision making,
- Make choices more explicit,
- Make choices repeatable and
- Clarify and prioritize options.

Decision-making grids outline the decision criteria and rank them based on the most important factors. These grids provide analysts with a measurable method for evaluating their options systematically.

Example Decision Matrix

Table 10 shows the weighting for a four-factor decision matrix for selecting pavement maintenance projects. The decision-making factors are the Pavement Condition Index, the cost of the project, the demand, or use, on the facility, the impact on safety, and other. The factors, weights, and values in this table can all be changed, and factors can be added or subtracted from the matrix.

The example shows that it is important to define your terms clearly. It also shows that important factors can work against one another. In this case PCI moves in the opposite direction of all the other factors. Also, in the example the lowest score is 1 and the highest possible score is 10.

Table - Example Decision Matrix

PCI	Cost	Use/Demand	Safety Impact	Value
25%	25%	25%	25%	100%
High	High	Poor	Poor	1
Good	Above Average	Fair	Fair	2
Average	Average	Average	Average	3
Fair	Below Average	Good	Good	4
Poor	Low	Excellent	Excellent	5

GENERAL RULES

JMTE believes that groups making decisions like to see the effect of changing a rating, like simplicity, and like repeatability. JMTE also understands that many raters, especially first-time raters are interesting in seeing what a good rating on a criterion means to others rather than developing their own opinion.

Train your rating team.

Spend at least a few minutes with each person who will be rating things to cover the definitions and the process for doing the ratings. Explain how the final score will be determined. Some things the trainer should emphasize are:

1. It is fine to re-rate a project or submission if you decide that your first assessment was wrong,
2. Each rater should consistently use the same terms,
3. Is high cost a good or bad thing, and
4. Rate independently (each rater's perspective is important, working with another person loses that perspective).

Keep the numbers small (preferably five or less and certainly ten or less).

The more factors included in the decision matrix the less sensitive it is to each factor. Also, the more factors included in the matrix the more likely it is to consider something two, three or even more times. For example, if you have a two-factor decision matrix then each factor is probably worth 50% of the score. For a five-factor decision matrix each factor is probably worth 20% of the final score. For a ten-factor decision matrix each factor is probably worth 10% of the score. Very quickly the matrix becomes un-usable because it is insensitive to the individual criteria.

Use Qualitative Scoring

Numbers (e.g., 1, 2, 3, 4, and 5) are easy to use. They are also easy to add up to get a final score. JMTE believes that it is better to use a qualitative scoring system (e.g., poor, fair, average, good, and excellent). JMTE has discovered that raters like to have the numbers defined, but that each person has a personal definition of poor, good, and excellent.

Use Odd Numbers of Raters

Regardless of the scoring system and the number of raters there will likely be tied scores. As the number of projects evaluated gets larger the number of projects with the same score will go up. If possible, have an odd number of raters in the process. This will minimize the number of tied scores. However, you must determine how to deal with tied scores that will inevitably happen.

Final Notes on Prioritization

Remember two things: First, systems do not make decisions people do. The purpose of a decision-making system is to make your decisions more consistent, transparent, and repeatable. So, the system will always need some input. Second, if you are using this system to prioritize spending you will find that the project costs do not neatly fall in line with the priorities. Some projects will move up your list just because their costs better match the money available.

APPENDIX F: REFERENCES

2021. Los Angeles County, Public Works. 2021. "Pavement Preservation."
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- Ingrid Bens, M. Ed. 1997. "Decision Grid." In *Facilitation at a Glance*, by M. Ed. Ingrid Bens, 145-147. AQP/Praticipative Dynamics/GOAL/QPC.
2018. *NCDOT January 2018 Roadway Standard Drawing*.
2012. *Pavement Conditon Survey Manual: 2012*. Raleigh, NC: North Carolina Department of Transportation.
- Revised December 2020. *Subdivision Roads: Mininum Construction Statndards*. Raleigh, NC: NCDOT.

Memorandum

To: Charles Watts, Mayor
Town Council

From: Larry Johnson, Planning Director

Date: March 31, 2022

Subject: Purchase Town-owned Property (Janavel Avenue)

During March 7, 2022, Town Council Meeting, the staff asked that Town Council adopt a Resolution for authorizing upset bids on **0.26 acres** of a larger tract located across from the old Town Hall along Janavel Avenue SW. from the Town of Valdese.

Following that decision, staff advertised to entertain additional offers. No other bids were received. Staff recommends accepting the offer by Mr. Ned Fowler, the principal developer for the Valdese Weavers Mills, of \$25,000.00 by adopting the resolution to sell the property “as is” and subject to all easements.

TOWN OF VALDESE

PUBLIC NOTICE

The public will notice that the Town Council of the Town of Valdese has received and proposes accepting an offer to purchase 0.259 acres of a 0.70-acre parcel from the Town of Valdese for \$25,000.00. The property location is 204 Janavel Ave. S.W., Valdese, and can be further identified by REID No. 38646 and PIN 2733950313.

Any person may, within ten (10) days from the publication of this notice, increase this bid by submitting in writing to the Town Clerk at 102 Massel Avenue S.W., Valdese, North Carolina 28690, an offer increasing the amount of the bid being considered by at least 10% of the first \$1,000 and 5% of the remainder, accompanied by a bid deposit in the amount of 5% of the increased bid.

Upon receiving a timely increased bid accompanied by the required deposit, the clerk will readvertise that offer for raised bids as required by G.S. 160A-269.

Jessica Lail, Clerk

PUBLISH: MARCH 14, 2022

RESOLUTION

(Sale of 0.259 Acres of 204 Janavel Avenue SW, Valdese, NC)

WHEREAS, Ned Fowler (“**Buyer**”) offered to purchase from the Town of Valdese (the “**Town**”) for the sum of \$25,000.00 certain property located at 204 Janavel Avenue SW, Valdese, North Carolina (the “**Property**”), which is described as follows:

Beginning at a point said point being located in the northern right of way margin of Janavel Avenue SW said point being the southeast corner with Blue Ridge Housing of Burke, LLC Deed Book 2578, Page 145, Burke County Registry; and running thence with the line of Blue Ridge Housing of Burke, LLC North 14° 05’ 13” East 134 feet to a point in the southern line of Foothills Service Project Deed Book 1811, Page 783, Burke County Registry; and running thence with the line of Foothills Service Project South 72° 55’ 00” East 85.60 feet to a point; continuing thence a new line South 14° 10’ 00” West 131.65 feet to a point in the northern line of Janavel Avenue; and running thence with the line of Janavel Avenue right of way North 73° 13’ 59” West 85.40 feet to the point in place of beginning and being a total 0.259 acres and being according to a survey prepared by West Consultants, PLLC, titled Property Of: Town of Valdese, and being a portion of PIN: 2733950313 and Deed Book 592 Page 904, Burke County Registry.

DEED REF: Book 592, Page 904, Burke County Public Registry

REID NO.: 38646

PIN NO.: 2733950313

WHEREAS, at its March 7, 2022, regular meeting, the Town council adopted a Resolution Authorizing Upset Bid Process proposing to accept this offer;

WHEREAS, as required by N.C.G.S. § 160A-269, the Town council directed Town representatives to publish notice of the Town’s intent to accept the offer and notice that persons could raise the bid, and that notice was published;

WHEREAS, more than ten (10) days expired without there being an upset bid, and the \$25,000.00 offer made by Buyer is the last and highest bid for the Property; and

WHEREAS, the Town does not need the Property, and the Town therefore desires to accept the offer made by Buyer and sell the Property to him upon the terms hereafter set forth.

IT IS THEREFORE RESOLVED that, pursuant to N.C.G.S. § 160A-269, the sale of the Property to Buyer for the purchase price of \$25,000.00 is approved; that the Property shall be sold “as is” and subject to all existing easements; that the Town shall reserve easements for all Town utility lines located on or under the property, if any; and that the Town manager is authorized and directed to deliver to Buyer a special warranty deed for the Property upon receipt of the purchase price, subject to the above terms and conditions.

THIS RESOLUTION IS ADOPTED APRIL _____, 2022.

THE TOWN OF VALDESE,
a North Carolina Municipal Corporation

(SEAL)

ATTEST:

By: _____
Charles Watts, Mayor

Jessica Lail, Town Clerk

Memo

(Submitted Under Attorney-Client Privilege)

To: Town Council and Town Manager
From: Timothy D. Swanson, Esq.
Date: 03/02/2022
Re: Animal Control Ordinance Amendment

The Town Council passed a pay classification schedule in 2021 identifying the position of Animal Control Officer as a new position. The Town Manager then exercised his powers under Section 8-2005 of the Ordinance to reorganize the departments and designate the Chief of Police as the Town's Animal Control Officer. The authorities previously granted to the Director of Public Works under the Animal Control Ordinance are now held by the Chief of Police. The following provisions in the Animal Control Ordinance should be amended to reflect this change:

Section 8-2005 Definitions.

Animal control officer. An employee or agent of the town, designated by the Town Manager or the Director of Public Works or some other authorized person to administer and enforce the permitting, inspection and enforcement requirements of this chapter and applicable state laws.

Section 8-2011 Supervision.

This chapter and other ordinances or state laws dealing with dogs, cats and animals shall be administered under the direction and supervision of the Town Manager and the Director of Public Works who shall be responsible for the development and implementation of policies and procedures providing for the enforcement of this chapter. Specific duties and responsibilities assigned to the Department of Public Works, or to the Director of Public Works, by this chapter may be delegated to animal control officers and other personnel.

Section 8-2013 Personnel.

The Director of Public Works may appoint animal control officers and assign such personnel as is necessary to effectively administer this chapter.

Section 8-2014 Policies.

The Director of Public Works, with the consent of the Town Manager, may issue and implement policies necessary or convenient for the orderly administration of this chapter including requirements concerning uniforms, the possession and use of weapons, use of vehicles, use of tranquilizer guns, and the manner of impounding animals. Further, the Director of Public Works, with the consent of the Town Manager, may also issue and implement policies concerning the adoption and redemption of animals, the manner and method of destroying or disposing of

animals, methods of investigation, the entry into premises with or without search warrants and all other matters pertaining to this chapter. However, all policies and procedures shall be in writing and shall be consistent with the terms and provisions of this chapter.

In the event the services of a county animal shelter or an independent shelter operated by some other private or public entity is used by the town, it is recognized that the rules and regulations issued by the governing body of that facility concerning the adoption and redemption of animals, the manner and method of destroying or disposing of animals and other operational matters may be controlling and therefore to the extent possible, policies issued by the Director of Public Works shall be consistent with the policies of that facility.

ORDINANCE NO. 22-_____**ORDINANCE AMENDING ANIMAL CONTROL ORDINANCE**

WHEREAS, Town Council passed a pay classification schedule in 2021 identifying the position of Animal Control Officer as a new position. The Town Manager then exercised his powers under Section 8-2005 of the Animal Control Ordinance to reorganize the departments and designate the Chief of Police as the Town's Animal Control Officer. The authorities previously granted to the Director of Public Works under the Animal Control Ordinance are now, therefore, held by the Chief of Police; and

WHEREAS, Town Council desires to amend certain sections of the Animal Control Ordinance to substitute the Chief of Police for the Director of Public Works as the Town's Animal Control Officer.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUCIL OF THE TOWN OF VALDESE, THAT THE FOLLOWING SECTIONS OF THE TOWN OF VALDESE CODE OF ORDINANCES ARE HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 1: AMENDED PROVISIONS.**Section 8-2005 Definitions.**

Animal control officer. An employee or agent of the town, designated by the Town Manager or the Chief of Police or some other authorized person to administer and enforce the permitting, inspection and enforcement requirements of this chapter and applicable state laws.

Section 8-2011 Supervision.

This chapter and other ordinances or state laws dealing with dogs, cats and animals shall be administered under the direction and supervision of the Town Manager and the Chief of Police who shall be responsible for the development and implementation of policies and procedures providing for the enforcement of this chapter. Specific duties and responsibilities assigned to the Town of Valdese Police Department, or to the Chief of Police, by this chapter may be delegated to animal control officers and other personnel.

Section 8-2013 Personnel.

The Chief of Police may appoint animal control officers and assign such personnel as is necessary to effectively administer this chapter."

Section 8-2014 Policies.

The Chief of Police, with the consent of the Town Manager, may issue and implement policies necessary or convenient for the orderly administration of this chapter including requirements concerning uniforms, the possession and use of weapons, use of vehicles, use of tranquilizer guns,

and the manner of impounding animals. Further, the Chief of Police, with the consent of the Town Manager, may also issue and implement policies concerning the adoption and redemption of animals, the manner and method of destroying or disposing of animals, methods of investigation, the entry into premises with or without search warrants and all other matters pertaining to this chapter. However, all policies and procedures shall be in writing and shall be consistent with the terms and provisions of this chapter.

In the event the services of a county animal shelter or an independent shelter operated by some other private or public entity is used by the town, it is recognized that the rules and regulations issued by the governing body of that facility concerning the adoption and redemption of animals, the manner and method of destroying or disposing of animals and other operational matters may be controlling and therefore to the extent possible, policies issued by the Chief of Police shall be consistent with the policies of that facility.

SECTION 2: SEVERABILITY.

If any portion of this Section is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 3: REPEALED.

All ordinance provisions of the Town of Valdese Code of Ordinances which are not in conformance with the provisions of this Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 4: EFFECTIVE DATE.

The amendments to this Ordinance shall become effective immediately upon adoption.

ORDAINED by the Town Council for the Town of Valdese, North Carolina, this the _____ day of _____, 2022.

(SEAL)

ATTEST:

Jessica Lail, Town Clerk

THE TOWN OF VALDESE,
a North Carolina Municipal Corporation

By: _____
Charles Watts, Mayor

Memo

(Submitted Under Attorney-Client Privilege)

To: Town Council and Town Manager
From: Timothy D. Swanson, Esq.
Date: 03/02/2022
Re: Senate Bill 300 (S.L. 2021-138)

The recent statutory amendments to N.C.G.S. 160A-175(b) curtail the types of ordinances that may be punishable as misdemeanors or infractions under N.C.G.S. 14-4. Civil penalties remain viable options where the statute no longer allows for infraction or misdemeanor penalties. Under the revised statute, ordinance violations resulting in either penalty under 14-4 or civil penalty both remain subject to injunctive relief for ongoing violations requiring abatement or other like intervention, and civil penalties remain collectable in the nature of debt.

Session Law 2021-138 (Senate Bill 300) is a wide-ranging criminal justice reform law. The law takes steps to decriminalize some local ordinances. As a result, local governments must amend local ordinances to specifically identify violations that may be enforced criminally. Additionally, the new law prohibits criminal enforcement of some local ordinances, including “Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.” In other words, land use regulations may not be enforced with criminal penalty.

In addition to the broad prohibition of criminal enforcement of development regulations, there are specific topics listed that may not be enforced by criminal enforcement. For municipalities these include stream-clearing programs, business licensing, outdoor advertising, solar collectors, cisterns and rain barrels, taxi regulations, building setback lines, curb cut regulations, and tree ordinance.

As noted above, the prohibition of criminal enforcement of local ordinances does not include “ordinances related to unsafe buildings.” It is not clear if the “unsafe building” exception is a narrow reference to building condemnation or a broad reference to building safety in general (encompassing building code, certificates of compliance, minimum housing, and more). Depending on the interpretation, some or all of the following topics arguably may still be enforced as misdemeanors since they are violations of ordinances “related to unsafe buildings”: enforcement of stop-work order, building permit violation, certificate of compliance violation, removing notice from condemned building, unsafe structure compliance.

I have identified the provisions that will require revision under SB300 in the attached Draft ORDINANCE AMENDING ENFORCEMENT OF CERTAIN SECTION OF THE TOWN

OF VALDESE CODE OF ORDINANCES BY ADDING CRIMINAL PENALTIES. In doing so, I have interpreted the “unsafe building” more broadly, carrying criminal penalties forward in areas where safety is at issue (e.g., removal of fire hazards, fire prevention, unfit dwelling, removal of posted complaint, failure to comply with order).

It is noteworthy that when coming into compliance, no ordinance purporting to impose a criminal penalty under 14-4 may be adopted at the first public meeting/hearing at which it is raised. Essentially, the proposed revised ordinances which call for or allow for penalties under 14-4 must be raised at an initial council meeting, and then a subsequent meeting/hearing must be held, upon proper notice, for discussion and adoption of those ordinances. The criminal penalty provisions of the amended statute went into effect on 12/01/2021, so these amendments should be effected as soon as possible.

ORDINANCE NO. 22-_____**ORDINANCE AMENDING ENFORCEMENT OF CERTAIN SECTIONS OF THE
TOWN OF VALDESE CODE OF ORDINANCES BY ADDING/REVISING CRIMINAL
PENALTIES**

WHEREAS, Part XIII of Session Law 2021-138 (S.L. 2021-138) removes the presumption that all local ordinances may be enforced criminally as provided in North Carolina General Statute 160A-175; and

WHEREAS, S.L. 2021-138 amends G.S. 160A-175(b) to state that ordinances may be enforced criminally as provided in N.C.G.S. 14-4 “only if the city specifies such in the ordinance;” and

WHEREAS, to comply with the session law, Town Council desires to amend certain sections of the Code by specifying which sections carry a criminal penalty.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUCIL OF THE TOWN OF VALDESE, THAT THE FOLLOWING SECTIONS OF THE TOWN OF VALDESE CODE OF ORDINANCES ARE HEREBY AMENDED TO READ AS FOLLOWS:

SECTION 1: AMENDED PROVISIONS.**Reference to Section 160A-175 Enforcement of ordinances.**

Reference to Section 160A-175 shall be deleted and replaced with the following:

(a) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(b) Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance may be a misdemeanor or infraction as provided by G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

(1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.

(2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.

(3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.

- (4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.
- (5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.
- (6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.
- (7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.
- (8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.
- (9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.
- (10) Any ordinance regulating trees.

(c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(g) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority.

N.C. Gen. Stat. § 160A-175 (Lexis Advance through Session Laws 2021-179 of the 2021 Regular Session of the General Assembly, but does not reflect possible future codification directives relating to Session Laws 2021-163 through 2021-179 from the Revisor of Statutes pursuant to G.S. 164-10)

Section 1-1005 Penalty; not exclusive remedy; continuing violations.

Section 1-1005 shall be deleted and replaced with the following:

(a) Unless this code provides otherwise, violation of any provision hereof shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

(b) Any person who shall violate a provision of this chapter enforceable as a criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person who shall violate a provision of this chapter enforceable as an infraction shall be required to pay a penalty of not more than fifty dollars (\$50.00). An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

(c) By express statement, an ordinance contained herein may provide for its enforcement by other remedies, as authorized in G.S. 160-175, including the imposition of civil fines, the ordering of appropriate equitable relief, including injunctions, or a combination of such remedies.

(d) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

Section 3-2004 Same; duties as fire inspector.

Section 3-2004(e) shall be deleted and replaced with the following:

(e) He shall cause the removal of fire hazards by serving proper orders to the owner or agent of premises in question, such orders to state a reasonable time limit. Any person who fails to comply with such order shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 3-2021 Fire prevention and protection.

Section 3-2021(h)(1) shall be deleted and replaced with the following:

(1) Any person(s) who shall violate any of the provisions of the Code hereby adopted, or failure to comply with any judicial warrant, lawful order, or regulation made thereunder, or who builds in violation of any specifications or plans submitted and approved thereunder, or any permit issued thereunder, shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this Code, whichever is less. Each day that such violation continues shall constitute a separate offense. In the name of the town, the fire chief, through the town attorney, may file suit to enjoin the construction or maintenance of any facility, building, or structure which does not conform to the provisions of the Code.

Section 4-1009 Same; penalty for violation section 4-1008.

Section 4-1009 shall be deleted and replaced with the following:

A violation of section 4-1008 shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 4-1029 Violation; penalty.

Section 4-1029 shall be deleted and replaced with the following:

Any person who shall violate a provision of this article shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person violating any of the provisions of this article shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.

Section 4-1058 Violations and penalty.

Section 4-1058(1) and (2) shall be deleted and replaced with the following:

In addition to and separated from other remedies provided in this article or otherwise provided by law, a violation shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 4-2011 Dumping or littering on public or private property.

The State Law Reference shall be deleted.

Section 4-2030 Penalties and remedies.

Section 4-2030 shall be deleted and replaced with the following:

(a) A violation of any of the provision of Articles B or Article C of this chapter shall subject the offender to a civil penalty of \$100. If the offender fails to pay this penalty within fifteen calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(b) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsection (a) of this section shall constitute a separate offense.

(c) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(d) The town may enforce this chapter by any one of or any combination of the foregoing remedies.

Section 5-2032 Penalties.

Section 5-2032(b) shall be deleted and replaced with the following:

(b) A continued violation beyond the established time limit specified in the written notice served in Section 5-2032(a) shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 6-2023 Same; violation.

Section 6-2023 shall be deleted and replaced with the following:

Any person found guilty of violating sections 6-2021 and 6-2022 shall be shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person violating any of the provisions of this article shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.

Section 7-1031 Obedience to signs, etc., generally.

Section 7-1031 shall be deleted and replaced with the following:

Any person failing or refusing to comply with the directions indicated on any sign, marker or device for the control or direction of traffic erected or placed in accordance with the

provisions of this chapter when so placed or erected shall be guilty of an infraction as provided by G.S. 14-4(b) and shall be required to pay a penalty of not more than fifty dollars (\$50.00). This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer or when an exception is granted to the driver of an authorized emergency vehicle under section 7-1026.

Section 7-1053 Driving at reduced speeds.

Section 7-1053 shall be deleted and replaced with the following:

(a) No person shall drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of willful disobedience of this provision and refusal to comply with the direction of an officer in accordance herewith, the continued slow operation by a driver shall be an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00).

(b) A violation of any of the provisions of the speeds set forth in this section shall be an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00).

Section 7-1231 Unauthorized removal of traffic citation from vehicle.

Section 7-1231 shall be deleted and replaced with the following:

It shall be unlawful to remove a traffic citation from a vehicle, or to permit it to be removed, except for the purpose of answering the charge for which it was issued. Any violation of this section shall be an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00). Each separate violation of this section shall be considered a separate offense.

Section 8-2055 Penalties.

Section 8-2055(a) shall be deleted and replaced with the following:

(a) A violation of this chapter shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate a provision of this chapter enforceable as a criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 8-3014 General penalty.

Section 8-3014 shall be deleted and replaced with the following:

Violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the town in a civil action in the nature

of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Citation shall be in writing, signed by the code enforcement officer and shall be delivered or mailed to the offender either at the residence or at the place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such civil penalty may be joined in action for appropriate equitable or other legal remedy, including injunctions and orders of abatement and including an action to recover damages owing to the town by reason of expenses incurred by the town in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action.

Section 8-4011 Penalties.

Section 8-4011 shall be deleted and replaced with the following:

(a) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the town in a civil action in the nature of a debt if the offender does not pay within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Violators shall be issued a written citation. Such citation shall be served by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.

(b) Each day's continuing violation shall be considered a separate and distinct offense.

(c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

Section 8-6001 Unnecessary noises prohibited; enforcement and penalties.

Section 8-6001(b)(3) shall be deleted and replaced with the following:

(3) A violation of this section shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 8-6023 Gambling.

Section 8-6023 shall be deleted and replaced with the following:

If any person play at any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, both those who play and those who bet thereon shall be guilty of a Class 3 misdemeanor as provided by G.S. 14-4(a) and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 8-6024 Indecent exposure.

Section 8-6024 shall be deleted and replaced with the following:

Any person who in any place willfully exposes his person, or private parts thereof, in the presence of one or more persons of the opposite sex whose person, or the private parts thereof, are similarly exposed, or who aids or abets in any such act, or who procures another so as to expose his person, or the private parts thereof, shall be guilty of a misdemeanor as provided by G.S. 14-4(a). Any person who shall willfully make any indecent public exposure of the private parts of his person in any public place, street or highway shall be guilty of a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 8-10005 Penalty.

Section 8-10005 shall be deleted and replaced with the following:

Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 9-1085 Issue of complaint; hearing; determination of unfit dwelling; abatement procedure.

Section 9-1085(d) shall be deleted and replaced with the following:

(d) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the official may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 9-1088 Unauthorized removal of posted complaint, notice or order.

Section 9-1088 shall be deleted and replaced with the following:

No person without the written consent of the town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or

such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 9-1099 Failure to comply with order.

Section 9-1099 shall be deleted and replaced with the following:

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less, as provided by G.S. 14-4. Every day such person shall willfully fail or refuse to comply with any final order or direction of the code enforcement officer or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.

Section 9-2006 Penalties for violation.

Section 9-2006 shall be deleted and replaced with the following:

After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this chapter, thereafter subdivides such land in violation of the chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such chapter and recorded in the office of the Burke County register of deeds, shall be subject to the penalties listed below. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Council, may enjoin illegal subdivision, transfer, or sale of land by injunction.

(a) A violation of this chapter shall be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the tax collector at the Valdese Town Hall within seventy-two (72) hours from the time of issuance of the written citation.

(b) Each day's continuing violation shall be a separate and distinct offense.

(c) The provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

(d) This chapter may be enforced by any one, all, or a combination of the remedies authorized herein.

Section 9-3120 Penalties for violations.

Section 9-3120 shall be deleted and replaced with the following:

(a) Any person who shall violate a section of this chapter punishable by criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

(b) A violation of this chapter shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the town within seventy-two (72) hours from the time of issuance of the written citation.

(b) Each day's continuing violation shall be a separate and distinct offense.

(c) In addition to the penalties imposed under Subsections 9-3120(a) and (b) above, the provisions of this chapter may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

(d) This chapter may be enforced by any one, all or a combination of the remedies authorized herein.

Section 9-3133 Proceedings of the Board of Adjustment.

Section 9-3133(b) shall be deleted and replaced with the following:

(b) The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 9-3170 Penalties.

Section 9-3170 shall be deleted and replaced with the following:

Any person found guilty of violating any provisions of this article shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 9-3203.8 Penalties for violation.

Section 9-3203.8 shall be deleted and replaced with the following:

A violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations. Nothing herein contained

shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 9-3204.3 Duties and responsibilities of the Floodplain Administrator.

Section 9-3204.3(16) shall be deleted and replaced with the following:

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Any person found guilty of violating a stop work order shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 9-3204.4 Corrective procedures.

Section 9-3204.4(5) shall be deleted and replaced with the following:

(5) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 9-3305.2 Remedies and penalties.

Section 9-3305.2(c) shall be deleted.

Section 9-3503 Remedies and penalties.

Section 9-3503(a)(6) shall be deleted.

SECTION 2: SEVERABILITY.

If any portion of this Section is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 3: REPEALED.

All ordinance provisions of the Town of Valdese Code of Ordinances which are not in conformance with the provisions of this Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 4: EFFECTIVE DATE.

The amendments to this Ordinance shall become effective immediately upon adoption.

ORDAINED by the Town Council for the Town of Valdese, North Carolina, this the _____ day of _____, 2022.

THE TOWN OF VALDESE,
a North Carolina Municipal Corporation

(SEAL)

ATTEST:

By: _____
Charles Watts, Mayor

Jessica Lail, Town Clerk

DIVISION I THE CHARTER AND OTHER RELATED LAWS
THE CHARTER
CHAPTER 847, SESSION LAWS 1977

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ARTICLE I
Incorporation, Corporate Powers and Boundaries

Section 1.1 Incorporation.

The Town of Valdese, North Carolina, in the County of Burke, and the inhabitants thereof, shall continue to be a municipal body politic and corporate, under the name and style of the "Town of Valdese," hereinafter at times referred to as the "town."

Section 1.2 Powers.

The Town of Valdese shall have and may exercise all of the powers, duties, rights, privileges and immunities, which are now, or hereafter may be, conferred, either expressly or by implication, upon the Town of Valdese, specifically, or upon municipal corporations, generally, by this charter, by the State Constitution, or by general or local law.

State Law Reference: Corporate powers generally, G.S. 160A-11, 12.

Section 1.3 Corporate limits.

The corporate limits of the Town of Valdese shall be those existing at the time of ratification of this charter, as the same are set forth on the official map of the town, and as the same may be altered from time to time in accordance with law. An official map or description showing the current town boundaries, shall be maintained permanently in the office of the town clerk, and shall be available for public inspection. Immediately upon alteration of the corporate limits made pursuant to law, the appropriate changes to the official map or description of the town shall be made.

State Law Reference: Corporate ~~boundaries~~boundaries. G.S. 160A-21.

ARTICLE II**Mayor and Town Council**

State Law Reference: Mayor and council, G.S. 160A-66 et seq.

Section 2-1 Governing body.

The mayor and town council, elected and constituted as herein set forth, shall be the governing body of the town. On behalf of the town, and in conformity with applicable laws, the mayor and council may provide for the exercise of all municipal powers, and shall be charged with the general government of the town.

Section 2.2 Town council; composition; terms of office.

The town council shall be composed of five (5) members, each of whom shall be elected for terms of four (4) years in the manner provided by Article III of this charter, provided they shall serve until their successors are elected and qualified.

Section 2.3 Mayor; term of office; duties.

The mayor shall be elected in the manner provided by Article II of this charter to serve for a term of four years, or until his successor is elected and qualified. The mayor shall be the official head of the town government and shall preside at all meetings of the council. He shall have the right to vote only when there is an equal number of votes in the affirmative and the negative on any motion before the council. The mayor shall exercise such powers and perform such duties as presently are or hereafter may be conferred upon him by the General Statutes of North Carolina, by this charter, and by the ordinances of the town. (Amended by Session Law 2000-28 of 1999, passed 6-29-2000)

Section 2.4 Mayor pro tempore.

In accordance with applicable state laws, the town council shall appoint one of its members to act as mayor pro tempore to perform the duties of the mayor in the mayor's absence or disability. The mayor pro tempore as such shall have no fixed term of office, but shall serve in such capacity at the pleasure of the remaining members of the council.

ARTICLE III Elections

Section 3.1 Regular municipal elections; conduct and method of election.

Regular municipal elections shall be held in the town every two (2) years in odd-numbered years and shall be conducted in accordance with the uniform municipal election laws of North Carolina. The mayor and members of the council shall be elected according to the nonpartisan plurality method of election.

Section 3.2 Election wards; ward boundaries.

(a) The town shall continue to be divided into five (5) single-member election wards, numbered one through five, respectively.

(b) The election ward boundaries shall be those existing at the time of the ratification of this charter, as the same are set forth by an official written description. The official written description of the election ward boundaries shall be maintained permanently in the office of the town clerk, and shall be available for public inspection.

(c) The town council is authorized, in accordance with state law, to revise from time to time the election ward boundaries of the town. Upon alteration of the ward boundaries pursuant to law, the board shall cause to be made the appropriate changes in the official written description of the election ward boundaries.

Section 3.3 Election of council members.

At the regular municipal elections in 1977 and quadriennially thereafter, there shall be elected three (3) council members to represent, respectively, election wards one, two and three, as hereinabove provided. At the regular municipal elections in 1979, and quadriennially thereafter, there shall be elected two (2) council members to represent, respectively, election wards four and five as hereinabove provided. Each candidate for the office of council member shall have been a resident of the ward from which he is a candidate for a period of not less than 30 days next preceding the date of the election. Candidates for council member shall be voted upon by the voters of the town voting at large.

Section 3.4 Election of the mayor.

At the regular municipal election in 2001, and quadrennially thereafter, there shall be elected a mayor to serve a term of four years. The mayor shall be elected by the voters of the town voting at large. (Amended by Session Law 2000-28 of 1999, passed 6-29-2000)

State Law Reference: Uniform Municipal Election Laws, G.S. 163-279 et seq.

ARTICLE IV
Organization and Administration

Section 4.1 Form of government.

The town shall operate under the council-manager form of government, in accordance with Part 2 of Article 7 of Chapter 160A of the General Statutes.

State Law Reference: Council-manager form of government, G.S. 160A-147 et seq.

Section 4.2 Administrative officers and employees.

Consistent with applicable state laws, the town council and town manager may establish positions, provide for the appointment of administrative officers and employees, and generally organize the town government in order to promote the orderly and efficient administration of the affairs of the town.

Section 4.3 Consolidation of administrative functions.

The town council and town manager may consolidate any two (2) or more administrative positions in the town government or may assign the functions of any position to the holder or holders of any other position, subject to the Local Government Budget and Fiscal Control Act, and other applicable state laws.

ARTICLE V
Alcoholic Beverage Control

Section 5.1 Election authorized.

(a) Subject to the limitations of Section 5.6 hereof, an election may at any time be called in the town upon written request of the town council or upon a petition to the appropriate board of elections conducting elections for the town on the question of submitting to the qualified voters of the town the question of establishing and operating in the town an alcoholic beverage control store, or stores, as herein provided.

(b) The election shall be called in the town by the appropriate board of elections upon the written request of the town council or upon a petition to the board of elections signed by a number of voters of the town equal to at least 20 percent of the number of registered voters of the town according to the registration figures certified by the State Board of Elections on the date the petition is presented to the appropriate board of elections. In calling the special election, the board of elections shall give at least 30 days' public notice of the election before the closing of the registration books for such election, and the registration books shall close at the same time as for a regular town election. A new registration of voters for special alcoholic beverage control elections is not required, and all qualified electors who are properly registered prior to the registration for the special election, as well as those electors who register for the special alcoholic beverage control election, shall be entitled to vote in the election.

Section 5.2 Petition procedure.

Unless otherwise specified in this article, the procedural requirements relating to the petition shall be as provided in G.S. 18A-52(b), (c), (d), and (e), except the question shall be 'For' or 'Against' municipal alcoholic beverage control stores.

Section 5.3 Election procedure; determination of results.

(a) The appropriate board of elections shall immediately call an election pursuant to the provisions of G.S. 18A-52, subsections (a) through (i), Which are hereby adopted, except that subsection (j) shall allow the presentation of one or more of the following.

(1) 'For' or 'Against' Off-Premises Sales Only of Unchilled Unfortified Wine.

(2) 'For' or 'Against' Off-Premises Sales Only of Unchilled Malt Beverages.

(b) This section shall in no way be construed as to limit the provisions of G.S. 18A-52, but is solely to allow the additional questions as to on- chilled malt beverages or wine to be presented to the voters in addition to those contained in sub- section (j), pursuant to the 1973 amendment of the North Carolina Legislature, or to be in addition to any questions which might later be allowed by the legislature.

(c) Those favoring the setting up and operation of alcoholic beverage control stores in the Town of Valdese shall place a mark in the voting square to the left of the words 'For Municipal Alcoholic Beverage Control Stores' printed on the ballot, and those opposed to setting up and operating alcoholic beverage control stores in the Town of Valdese shall place a mark in the voting square to the left of the words ~~'Against'~~ "Against" Municipal Alcoholic Beverage Control Stores', printed on the same ballot. If a majority of the votes cast in such

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election shall be for municipal alcoholic beverage control stores, then an alcoholic beverage control store, ~~-or alcoholic beverage control stores, -~~may be set up and operated in the Town of Valdese as herein provided. If a majority of the votes cast at the election are against municipal alcoholic bev~~-~~erage control stores, ~~-then~~ no alcoholic beverage control store shall be set up or operated in the Town of Valdese under the provisions of this article.

Section 5.4 Board of alcoholic control; organization; use of funds.

(a) If the operation of a municipal alcoholic beverage control store is authorized under the provisions of this article, ~~-the~~ mayor and council shall immediately create a town board of alcoholic control to be composed of a chairman and two (2) other members who shall be well known for their character, ~~-ability~~ and business acumen. Said board shall be known and designated as "The Town of Valdese Board of Alcoholic Control." The chairman of said board shall be designated by the mayor and town council and shall serve for his first term a period of three (3) years; one member shall serve for his first term a period of two (2) years; the other member shall serve for a term of one (1) year. All terms shall begin with the date of their appointment and after such terms shall have expired, ~~-the~~ successors in office shall serve for a period of three (3) years. The successors and any vacancies occurring in the Town Board of Alcoholic Control shall be named or filled by the mayor and the council of the town.

(b) The board of alcoholic control shall have all the powers and duties imposed by the General Statutes on county boards of alcoholic control and shall be subject to the powers and authority of the State Board of Alcoholic Control the same as county boards of alcoholic control, as provided in the General Statutes. The town board of alcoholic control and the operation of any town liquor store authorized under the provisions of this section shall be subject to and in pursuance with the provisions of Chapter 18A of the General Statutes, except to the extent which the same article. Wherever the term "county" board of alcoholic control appears in Chapter 18A, it shall include the Town of Valdese board of alcoholic control. The net profits remaining after the first deducting necessary working capital, salaries and expenses, ~~-including those sums expended for law enforcement and for education on the excessive use of alcoholic beverages and for the rehabilita-~~tion of alcoholics as required by G.S. 18A-17, shall be distributed not less than annually as follows:

(1) 10 percent of the net profits paid into the general fund of Burke County to be used only for capital outlay for the county public schools;

(2) 90 percent of the net profits paid into the general fund of the Town of Valdese to be appropriated by the governing body of the town for any proper governmental purpose.

Section 5.5 Subsequent elections.

The appropriate board of elections shall, upon request by the town council or receipt of a petition signed by 20 percent of all registered voters of the town, call a subsequent election, to be conducted in accordance with Sections 5.1 through 5.4 hereof, for the purpose of voting 'For' or 'Against' liquor control stores. If, after the establishment of an alcoholic beverage control store or stores in the town under the provisions of this article, a subsequent election shall be held and, if, at such election a majority of the votes shall be cast "Against Municipal Alcoholic Beverage Control Stores," the board of alcoholic control shall, within three (3) months from the canvassing of such votes and the declaration of the result there- of, close

such store or stores and shall thereafter cease to operate the same. Within three (3) months therefrom the board shall dispose of all alcoholic beverages on hand, all fixtures, and all other property in the hands and under the control of the board of alcoholic control and convert the same into cash and turn the same over to the town finance officer. Thereafter, all Public, Public-Local, Private and Session Laws applicable to the sale of intoxicating beverages within the town in force and effect prior to the authorization to oper~~-ate~~ a municipal alcoholic beverage control store shall be in full force and effect as if such election had not been held, ~~-until~~ and unless another election is held under the provisions of this article in which a majority of the votes shall be cast. "For Municipal Alcoholic Beverage Control Stores."

Section 5.6 Limitations on holding elections.

No election shall be called and held in the town under the provisions of this article within three (3) years from the holding of the last election there- under. It shall be the duty of the board of elections for the Town of Valdese to order the special liquor election herein authorized within 60 days after request by the town council or after the filing of a sufficient petition requesting the same, but no election under this act shall be held on the day of any biennial county or town general election or primary election, ~~-or~~ within 45 days of any such election.

Section 6.1 Assessments for street and sidewalk improvements; petition unnecessary.

(a) In addition to any authority which is now or may hereafter be granted by general law to the town for making street improvements, the town council is hereby authorized to make street im~~-provements~~ and to assess the cost thereof against abutting property owners in accordance with the provisions of this section.

(b) The town council may order street improvements and assess the cost thereof against the abutting property owners, ~~-exclusive~~ of the costs incurred at street intersections, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes without the necessity of a petition, ~~-upon~~ the finding by the board as a fact:

- (1) that the street improvement project does not exceed 1,200 linear feet, and
- (2) that such street or part thereof is unsafe for vehicular traffic, and it is in the public interest to make such improvement, or
- (3) that it is in the public interest to connect two streets, or portions of a street already improved, or
- (4) that it is in the public interest to widen a street, or part thereof, which is already improved, provided, that assessments for widening any street or portion of street without a petition shall be limited to the cost of widening and otherwise improving such street in accordance with the street classification and improvement standards established by the town's thoroughfare or major street plan for the particular street or part thereof to be widened and improved under the authority granted by this article:

(c) For the purposes of this section the term "street improvement" shall refer to the initial im~~-provement~~ of an unimproved, unpaved street, including initial acquisition of rights-of-way, grading, surfacing, and the construction of curb and gutter and street drainage facilities. For the purposes of this section, the term "sidewalk improvement" shall refer to

the initial acquisition of rights-of-way, laying out, grading and surfacing of new sidewalks. The provisions of this section are not intended to refer to those activities that are normally included under the city's [town's] facing and repairs, curb and gutter and sidewalk maintenance and repairs.

(d) ~~¶~~In addition to any authority which is now or may hereafter be granted by general law to the town for making sidewalk improvements, the town council is hereby authorized without the necessity of a petition, to make or to order to be made sidewalk improvements or repairs according to standards and specifications of the town, and to assess the total cost thereof against abutting property owners, according to one or more of the assessment bases set forth in Article 10 of Chapter 160A of the North Carolina General Statutes; provided, however, that regardless of the assessment basis or bases employed, the board of commissioners [town council] may order the cost of sidewalk improvements made only on one side of a street to be assessed against property owners abutting both sides of such street.

(e) In ordering street and sidewalk improvements without a petition and assessing the cost thereof under authority of this article, the board of commissioners [town council] shall comply with the procedure provided by Article 10 of Chapter 160A of the General Statutes, except those provisions relating to the petition of property owners and the sufficiency thereof.

(f) The effect of the act of levying assessments under the authority of this article shall for all purposes be the same as if the assessments were levied under authority of Article 110 of Chapter 160A of the General Statutes.

Section 6.2 Power of eminent domain.

The procedures provided in Article 9 of Chapter 136 of the General Statutes, as specifically authorized by G.S. 136-66.3(c), shall be applicable to the town in the case of acquisition of lands, easements, privileges, rights-of-way and other interest in real property for streets, sewer lines, water lines, electric power lines, and other utility lines in the exercise of the power of eminent domain. The town, when seeking to acquire such property or rights or easements therein or thereto, shall have the right and authority, at its option and election, to use the provisions and procedures as authorized and provided in G.S. 136-66.3(c) and Article 9 of Chapter 136 of the General Statutes for any of such purposes without being limited to streets constituting a part of the State Highway System; provided, however, that the provisions of this section shall not apply with regard to properties owned by public service corporations as defined in G.S. 160A-243(c), unless (1) the exercise of such power of eminent domain is either consented to by the owner of the property to be acquired by the town, or (2) it is first adjudicated after notice and a hearing that such acquisition will not prevent or unreasonably impair the continued devotion to the public use of such properties and the operation by such public service corporation.

Section 6.3 Economic development.

(a) As used in this section, the term "economic development project" means an economic capital development project within a certain defined area or areas of the town as established by the town council comprising one or more lots, buildings, or other improvements and including any public or private facilities. Said project may include programs or facilities for

improving downtown redevelopment, 'pocket of poverty' or other federal or state assistance programs which the town council determines to be in need of economic capital development or revitalization and which qualify for capital assistance under applicable federal or state programs. (b) (1) In addition to any other authority granted by law, the Town of Valdese may accept grants, expend funds, make grants, or loans, acquire property and participate in economic development projects which the town council determines will enhance the economic development and revitalization of the town in accordance with the authority granted herein. Such project may include both public and private lots, buildings or facilities financed in whole or in part by federal or state grants (including but not limited to urban development action grants) and may include any capital expenditures which the town council finds necessary to comply with conditions in any federal or state grant agreements and which the town council finds will complement the project and improve the public tax base and general economy of the town. Such projects may be partially financed with town funds received from federal or state sources and being granted or loaned to the private owner for said construction or renovation; in addition, other town funds from any sources may be used for acquisition, construction, leasing and operation of facilities by the town for the general public and for capital improvements to public facilities which will support and enhance the private facilities and the general economy of the town.

(2) When the town council finds that it will promote the economic development or revitalization of the town, the town may acquire, construct, and operate or participate in the acquisition, construction, ownership and operation of an economic development project or of specific buildings or facilities within such a project and may comply with any state or federal government grant requirements in connection therewith. The town may enter into binding contracts with one or more private parties or governmental units with respect to acquiring, constructing, owning or operating such a project. Such a contract may, among other provisions, specify the responsibilities of the town and the developer or developers and operators or owners of the project, including the financing of the project. Such a contract may be entered into before the acquisition of any real property necessary to the project by the town or the developer or other parties.

(c) An economic development project may be constructed on property acquired by the developer or developers, or on property directly acquired by the town, or on property acquired by the Redevelopment Commission while exercising powers, duties and responsibilities pursuant to G.S. 160A-505.

(d) In connection with an economic development project, the town may convey interests in property owned by it, including air rights over public facilities, as follows:

(1) If the property was acquired under the urban redevelopment law, the property interests may be conveyed in accordance with said law.

(2) If the property was acquired by the town directly, the town may convey property interests by any procedures set forth in its charter or the general law or by private negotiation or sale.

(e) The town may contract for the operation of any public facility or facilities included in an economic development project by a person, partnership, firm or corporation, public or private. In addition, the town, upon consideration, may contract through lease or otherwise whereby it may operate privately constructed parking facilities to serve the general

public. Such a contract shall include provisions sufficient to assure that any such facility or facilities are operated for the benefit of the citizens of the town. (Ratified 2/17/83)

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RELATED LOCAL LAWS

(Reserved)

State Laws Governing The Organization And Procedures Of The Governing Body

ARTICLE 5.

FORM OF GOVERNMENT.

PART 1.

GENERAL PROVISIONS.

Section 160A-60. Qualifications for appointive office.

Residence within a city shall not be a qualification for or prerequisite to appointment to any city office not filled by election of the people, unless the charter or an ordinance provides otherwise. City councils shall have authority to fix qualifications for appointive offices, but shall have no authority to waive qualifications for appointive offices fixed by charters or general laws.

Section 160A-61 Oath of office.

Every person elected by the people or appointed to any city office shall, before entering upon the duties of the office, take and subscribe the oath of office prescribed in Article VI, ~~Section 7~~ of the Constitution. Oaths of office shall be administered by some person authorized by law to administer oaths, and shall be filed with the city clerk~~.~~

Section 160A-62 Officers to hold over until successors qualified.

All city officers, whether elected or appointed, shall continue to hold office until their successors are chosen and qualified~~.~~ This section shall not apply when an office or position has been abolished, when an appointed officer or employee has been discharged, or when an elected officer has been removed from office~~.~~

Section 160A-62 Vacancies.

A vacancy that occurs in an elective office of a city shall be filled by appointment of the City Council. If the term of the office expires immediately following the next regular city election, or if the next regular city election will be held within 90 days after the vacancy occurs, the person appointed to fill the vacancy shall serve the remainder of the unexpired term. Otherwise, a successor shall be elected at the next regularly scheduled city election that is held more than 90 days after the vacancy occurs, and the person appointed to fill the vacancy shall serve only until the elected successor takes office~~.~~ ~~The elected successor shall then proceed to fill the remainder of the unexpired term.~~ If the number of vacancies on the council is such that a quorum of the council cannot be obtained, ~~the mayor shall appoint enough members to make up a quorum, and the council shall then proceed to fill the remaining vacancies.~~ If the number of vacancies on council is such that a quorum of the council cannot be obtained and the office of mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the council, or upon the petition of any five registered voters of the city. Vacancies in appointive offices shall be filled by the

same authority that makes the initial appointment. This section shall not apply to vacancies in cities that have not held a city election, levied any taxes, or engaged in any municipal functions for a period of five years or more.

In cities whose election are conducted on a partisan basis, a person appointed to fill a vacancy in an elective office shall be a member of the same political party as the person whom he replaces if that person was elected as the nominee of a political party.

Section 160A-64 Compensation of mayor and council.

(a) The council may fix its own compensation and the compensation of the mayor and any other elected officers of the city by adoption of the annual budget ordinance, but the salary of an elected officer other than a member of the council may not be reduced during the then-current term of office unless he agrees thereto. The mayor, councilmen, and other elected officers are entitled to reimbursement for actual expenses incurred in the course of performing their official duties at rates not in excess of those allowed to other city officers and employees, or to a fixed allowance, the amount of which shall be established by the council; -for travel and other personal expenses of office; -provided, -any fixed allowance so established during a term of office shall not be increased during such term of office.

(b) All charter provisions in effect as of January 1, 1972, fixing the compensation or allowances of any city officer or employee are repealed, but persons holding office or employment on January 1, 1972 shall continue to receive the compensation and allowances then prescribed by law until the council provides otherwise in accordance with this section or G.S. 160A-162.

Section 160A-65 Repealed by Session Laws 1975, c. 514 , s. 17.

Part 2.
Mayor and Council.

Section 160A-66 Composition of council.

Unless otherwise provided by its charter, each city shall be governed by a mayor and a council of three members, who shall be elected from the city at large for terms of two years.

Section 160A-67 General powers of mayor and council.

Except as otherwise provided by law, ~~the~~ government and general management of the city shall be vested in the council. The powers and duties of the mayor shall be such as are conferred upon him by law, together with such other powers and duties as may be conferred upon him by the council pursuant to law. The mayor shall be recognized as the official head of the city for the purpose of service of civil process, and for all ceremonial purposes.

Part 3.

Organization and Procedures of the Council

Section 160A-68 Organizational meeting of council.

(a) The council may fix the date and time of its organizational meeting. The organizational meeting may be held at any time after the results of the municipal election have been officially determined and published pursuant to municipal Subchapter IX of Chapter 163 of the General Statutes but not later than the date and time of the first regular meeting of the council in December after the results of the municipal election have been certified pursuant to that Subchapter. If the council fails to fix the date and time of its organizational meeting, then the meeting shall be held on the date and at the time of the first regular meeting in December after the results of the municipal election have been certified pursuant to Subchapter IX of Chapter 163 of the General Statutes.

(b) At the organizational meeting, the newly elected mayor and councilmen shall qualify by taking the oath of office prescribed in Article VI, Section 7 of the Constitution. The organization of the council shall take place notwithstanding the absence, death, refusal to serve, failure to qualify, ~~or~~ nonelection of one or more members, but at least a quorum of the members must be present.

(c) All local acts or provisions of city, ~~charters~~ which prescribed a particular meeting day or date for the organizational meeting of a council are hereby repealed.

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Section 160A-70 Mayor pro tempore; ~~disability~~ of mayor.

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council. A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including the determination of whether a quorum is present. During the absence of the mayor, ~~the~~ council may confer upon the mayor pro tempore any of the powers and duties of the mayor. If the mayor should become physically or mentally incapable of performing the duties of his office, the council may by unanimous vote declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore. Upon the mayor's declaration

that he is no longer incapacitated, and with the concurrence of a majority of the council, the mayor shall resume the exercise of his powers and duties. In the event both the mayor and the mayor pro tempore are absent from a meeting, the council may elect from its members a temporary chairman to preside in such absence.

Section 160A-71. Regular and special meetings; recessed and adjourned meetings; procedure.

(a) The council shall fix the time and place for its regular meetings. If no action has been taken fixing the time and place for regular meetings, a regular meeting shall be held at least once a month at 10:00 A.M. on the first Monday of the month.

(b) (1) The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and subjects to be considered. The notice shall be delivered to the mayor and each councilman or left at his usual dwelling place at least six hours before the meeting. Only those items of business specified in the notice may be transacted at a special meeting, unless all members are present or have signed a written waiver of notice. In addition to the procedures set out in this subsection or any city charter, a person or persons calling a special meeting of a city council shall comply with the notice requirements of Article 33C of General Statutes Chapter 143.

(2) Special meetings may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice.

(3) During any regular meeting, or any duly called special meeting, the council may call or schedule a special meeting, provided that the motion or resolution calling or scheduling any such special meeting shall specify the time, place and purpose or purposes of such meeting and shall be adopted during an open session.

(b1) Any regular or duly called special meeting may be recessed to reconvene at a time place certain, or may be adjourned to reconvene at a time and place certain, by the council.

(c) The council may adopt its own rules of procedure, not inconsistent with the city charter, general law, or generally accepted principles of parliamentary procedure.

Section 160A-72. Minutes to be kept; ayes and noes.

Full and accurate minutes of the council proceedings shall be kept, and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes, and upon the request of any member of the council, the ayes and noes upon any question shall be taken.

Section 160A-74 Quorum.

A majority of the actual membership of the council plus the mayor, excluding vacant seats shall constitute a quorum. A member who has withdrawn from a meeting without being excused by a majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Section 160A-75 Voting.

No member shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote. The question of the compensation and allowances of members of the council is not a matter involving a member's own ~~financial~~ financial interest or official conduct.

An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, take any action having the effect of an ordinance, authorize or commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to no greater than two thirds of all the actual membership of the council, excluding vacant seats (not including the mayor unless he has the right to vote on all questions before the council). For purposes of this section, an ordinance shall be deemed to have been introduced on the date the subject matter is first voted on by the council.

* * *

Section 160A-80 Power of investigation; subpoena power.

(a) The council shall have power to investigate the affairs of the city, and for that purpose may subpoena witnesses, administer oaths, and compel the production of evidence.

(b) If a person fails or refuses to obey a subpoena issued pursuant to this section, the council may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witnesses before the council pursuant to a subpoena issued in exercise of the power conferred by this section may be used against him on the trial of any civil or criminal action other than a prosecution for false swearing committed on the criminal action other than a prosecution for false swearing committed on the examination. If any person, while under oath at an investigation by the council, willfully swears falsely, he is guilty of a Class 1 misdemeanor.

(c) Repealed by Session Laws 1991 c. 512, s. 1, effective July 2, 1991.

Section 160A-81 Conduct of public hearings.

Public hearings may be held at any place within the city or within the county in which the city is located. The council may adopt reasonable rules governing the conduct of public hearings, including but not limited to rules (i) fixing the maximum time allotted to each speaker, (ii) providing for the designation of maximum spokesman for groups of persons supporting or opposing the same positions, (iii) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall, and (iv) providing for the maintenance of order and decorum in the conduct of the hearing.

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The council may continue any public hearing without further advertisement. If a public hearing is set for a given date and a quorum of the council is not then present, the hearing shall be continued until the next regular council meeting without further advertisement.

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ARTICLE 8**Delegation and Exercise of the General Police Power****Section 160A-175 Enforcement of ordinances.**

~~—(a) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.~~

~~—(b) Unless the council shall otherwise provide, violation of a city ordinance is a misdemeanor or infraction as provided by G.S. 14-4. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4.~~

~~—(c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature if the offender does not pay the penalty within the prescribed period of time after he has been cited for violation of the ordinance.~~

~~—(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139.~~

~~—(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.~~

~~—(e) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.~~

~~In addition to an injunction, the court may enter an order of abatement as a part of the judgement in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of~~

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~~abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.~~

~~—(f) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.~~

~~—(g) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.~~

(a) A city shall have power to impose fines and penalties for violation of its ordinances, and may secure injunctions and abatement orders to further insure compliance with its ordinances as provided by this section.

(b) Except for the types of ordinances listed in subsection (b1) of this section, violation of a city ordinance may be a misdemeanor or infraction as provided by G.S. 14-4 only if the city specifies such in the ordinance. An ordinance may provide by express statement that the maximum fine, term of imprisonment, or infraction penalty to be imposed for a violation is some amount of money or number of days less than the maximum imposed by G.S. 14-4. Notwithstanding G.S. 160A-75, no ordinance specifying a criminal penalty may be enacted at the meeting in which it is first introduced.

(b1) No ordinance of the following types may impose a criminal penalty:

(1) Any ordinance adopted under Article 19 of this Chapter, Planning and Regulation of Development, or its successor, Chapter 160D of the General Statutes, except for those ordinances related to unsafe buildings.

(2) Any ordinance adopted pursuant to G.S. 160A-193.1, Stream-clearing programs.

(3) Any ordinance adopted pursuant to G.S. 160A-194, Regulating and licensing businesses, trades, etc.

(4) Any ordinance adopted pursuant to G.S. 160A-199, Regulation of outdoor advertising or, its successor, G.S. 160D-912, Outdoor advertising.

(5) Any ordinance adopted pursuant to G.S. 160A-201, Limitations on regulating solar collectors or, its successor, G.S. 160D-914, Solar collectors.

(6) Any ordinance adopted pursuant to G.S. 160A-202, Limitations on regulating cisterns and rain barrels.

(7) Any ordinance adopted pursuant to G.S. 160A-304, Regulation of taxis.

(8) Any ordinance adopted pursuant to G.S. 160A-306, Building setback lines.

(9) Any ordinance adopted pursuant to G.S. 160A-307, Curb cut regulations.

(10) Any ordinance regulating trees.

(c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

(c1) An ordinance may provide for the recovery of a civil penalty by the city for violation of the fire prevention code of the State Building Code as authorized under G.S. 143-139.

(d) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall

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have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the city for equitable relief that there is an adequate remedy at law.

(e) An ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the city may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the city may execute the order of abatement. The city shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) Subject to the express terms of the ordinance, a city ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(g) A city ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

(h) Notwithstanding any authority under this Article or any local act of the General Assembly, no ordinance regulating trees may be enforced on land owned or operated by a public airport authority.

N.C. Gen. Stat. § 160A-175 (Lexis Advance through Session Laws 2021-179 of the 2021 Regular Session of the General Assembly, but does not reflect possible future codification directives relating to Session Laws 2021-163 through 2021-179 from the Revisor of Statutes pursuant to G.S. 164-10).

DIVISION II
CODE OF GENERAL ORDINANCES
PART 1
INTRODUCTION

Chapter 1. Use of the Code and Penalties

CHAPTER 1

Use of the Code and Penalties

Section 1-1001 Definitions and rules of construction.

Section 1-1002 Provisions considered as continuations of existing ordinances.

Section 1-1003 Section designations.

Section 1-1004 Effect of repeal or expiration of ordinances.

Section 1-1005 Criminal penalty; not exclusive remedy; continuing violations.

Section 1-1006 Severability of parts of code.

Section 1-1007 Damaging ordinances prohibited.

Section 1-1001 Definitions and rules of construction.

In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed unless inconsistent with the manifest intent of the town council or the context clearly requires otherwise.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day is Saturday or Sunday or a legal holiday, that day shall be excluded.

Council. The words "the council" or "council" shall mean the town council of the Town of Valdese.

County. The words "the county" or "county" shall mean the County of Burke, in the State of North Carolina, except as otherwise provided.

Gender. Words importing the masculine gender shall include the feminine and neuter.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Mayor. The words "the mayor" or "mayor" shall mean the mayor of the Town of Valdese.

Month. The word "month" shall mean a calendar month.

Number. Words used in the ~~singular includes~~ singular include the plural, and words used in the plural include the singular number.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Owner. The word "owner" applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit, as well as an individual.

Personal property. The words "personal property" include every species of property except real property as herein defined.

Preceding, following. The words "preceding" and "following" shall mean next before and next after respectively.

Property. The word "property" shall include real and personal property.

Real property. The words "real property" shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

Signature, subscription. The words "signature" or "subscription" include a mark when the person cannot write.

State. The word "state" shall be construed to mean the State of North Carolina except as otherwise provided.

Street. The word "street" shall mean and include any public way, road, highway, street, avenue, boulevard, parkway, alley, land, viaduct, or bridge and the approaches thereto within the town.

Tenant, occupant. The words "tenant" or "occupant" applied to a building or land shall include any person who occupies the whole or a part of such building or land whether alone or with others.

Time. Words used in the past or present tense include the future as well as the past and present.

Town. The words "the town" shall mean the Town of Valdese, in the County of Burke and State of North Carolina, except as otherwise provided.

Writing. The words "writing" and "written" shall include printing and any other mode of representing words and letters.

Year. The word "year" shall mean a calendar year except as otherwise provided.

Section 1-1002 Provisions considered as continuations of existing ordinances.

The provisions appearing in this code, so far as they are the same as ordinances adopted prior to this code and included herein, shall be considered as continuations thereof and not as new enactments.

Section 1-1003 Section designations.

The headings of the several sections of this code printed in bold-face type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Section 1-1004 Effect of repeal or expiration of ordinances.

The repeal of an ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment

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incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

Section 1-1005 ~~Criminal p~~Penalty; not exclusive remedy; continuing violations.

(a) ~~In accordance with G.S. 160A-75, and unless this code provides otherwise, violation of any provision hereof shall be a misdemeanor as provided in G.S. 14-4, punishable upon conviction by a fine not exceeding \$50 or by imprisonment not exceeding 30 days. An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4. Unless this code provides otherwise, violation of any provision hereof shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.~~

(b) Any person who shall violate a provision of this chapter enforceable as a criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person who shall violate a provision of this chapter enforceable as an infraction shall be required to pay a penalty of not more than fifty dollars (\$50.00). An ordinance may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4.

(bc) By express statement, an ordinance contained herein may provide for its enforcement by other remedies, as authorized in G.S. 160-175, including the imposition of civil fines, the ordering of appropriate equitable relief, including injunctions, or a combination of such remedies.

(ed) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense.

Editorial Note: G.S. 160A-175, authorizing municipalities to employ alternate remedies in the enforcement of local ordinances, is set out in the Related State Laws portion of this code. See page S-1 and following.

Section 1-1006 Severability of parts of code.

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this code are severable and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code since the same would have been enacted by the council without the incor-poration in this code of any such unconstitu-tional or invalid phrase, clause, sentence, paragraph or section.

Section 1-1007 Damaging ordinances prohibited.

No person shall tear or deface any of the town ordinances.

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PART 2
Government and Administration

- Chapter 1. Town Council
- Chapter 2. Administrative Organization
- Chapter 3. Departmental Operating Organization (Reserved)
- Chapter 4. Financial Administration
- Chapter 5. Social Security and Retirement
- Chapter 6. Personnel Administration
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- Chapter 8. Elections

CHAPTER 1

Town Council

ARTICLE A

General

- Section 2-1001 Composition of governing body.
- Section 2-1002 Oaths of office.
- Section 2-1003 Power to pass ordinances, resolutions, etc.
- Section 2-1004 Powers with regard to town manager and as to bond employees.
- Section 2-1005 Chief executive of town.
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ARTICLE B

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- Section 2-1011 Regular meetings; time and place.
- Section 2-1012 Special meetings; notice.
- Section 2-1013 Adjourned meetings.
- Section 2-1014 Presiding officer.
- Section 2-1015 Order of business.
- Section 2-1016 Rules of procedure generally.
- Section 2-1017 Quorum.
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Section 2-1031 Effective date.

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ARTICLE A
General

Section 2-1001 Composition of governing body.

The governing body shall consist of a mayor and town council of five (5) members, who shall be elected in accordance with the general laws of the state applicable to municipal elections.

Charter Reference: Composition of governing hoard, charter sec.

Section 2-1002 Oaths of office.

The mayor and each councilman-elect shall, before entering upon the duties of his office, take and subscribe, before some person lawfully entitled to administer oaths, an oath or affirmation to support the constitution of the United States and the constitution of the state and the laws made pursuant thereto; and to faithfully perform the duties of their office; which oath or affirmation shall be entered upon the minutes of the town council subscribed as aforesaid and attested by the officer administering the same.

State Law Reference: G.S. 160A-61 (See Related Suite Laws)

Section 2-1003 Power to pass ordinances, resolutions, etc.

The council shall have power to pass ordinances, resolutions or bylaws, for the better government of the town, not inconsistent with the charter or laws of the land.

State Law Reference: G.S. 160A-174.

Section 2-1004 Powers with regard to town manager and as to bond employees.

The council shall have power to prescribe the duties and fix the compensation of the town manager and to set the bonds of all employees of the town. (As amended 11/3/80)

Section 2-1005 Chief executive of town.

The mayor shall be chief executive of the town. (Code 1970. Sec. 2-24)

State Law Reference: Duties of the mayor: G.S. 160A-69.

Section 2-1006 Duties of mayor generally.

It shall be the duty of the mayor to:

- (a) Keep himself informed as to the town's business.
- (b) Preside over the meetings of the town council.
- (b) Appoint such committees and outline their powers and duties as the council may direct.
- (d) Make such recommendations as he deems necessary or expedient to the council.
- (e) Appear on behalf of the town at public occasions.

State Law Reference: Powers and duties of mayor conferred by law and by council pursuant to law: G.S. 160A-67.

Section 2-1007 through section 2-1010 reserved.

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ARTICLE B Meetings

Section 2-1011 Regular meetings: time and place.

There shall be a regular meeting of the council at the town hall, on the first Monday in each month, at 6:00 p.m., unless another place, date or time shall be designated, in which case, each member of the council shall be so notified. (As amended by Ord. of 3/3/80; Ord. of 8/3/15)

Section 2-1012 Special meetings; notice.

Special meetings of the council may be held according to the procedures of G.S. 160A-71. State Law Reference: Special meetings: G.S. 160A-71(b). (See Related State Laws portion of this Code)

Section 2-1013 Adjourned meetings.

If a quorum shall fail to attend any regular or special meeting of the council, or if for any reason the meeting shall fail to complete the transaction of the business before the meeting, the meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.

Section 2-1014 Presiding officer.

The mayor, when present, shall preside at all meetings of the council. In case of the absence of the mayor, the mayor pro tempore shall preside, and in the absence of both, some member of the board may be designated by the members present as presiding officer for that meeting. State Law Reference: Mayor to preside over meetings: voting right. G.S. 160A-69: 160A-70 mayor pro tempore.

Section 2-1015 Order of business.

(a) The order of business at all regular meetings of the council shall be as follows:

- (1) Reading of minutes of last meeting.
- (2) Corrections, if any, made in same.
- (3) Reports of committees.
- (4) Unfinished business.
- (5) Reading any communication by the town clerk.
- (6) New business.

(b) If the council directs any matter to be the special business of a future meeting, the same shall have precedence over all other business at such meeting.

(c) No proposition shall be entertained by the mayor until it has been seconded, and every proposition shall, when required by the mayor or any member, be reduced to writing.

Section 2-1016 Rules of procedure generally.

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Except as otherwise provided by this code or by ordinance, the procedure of the council shall be governed by Robert's Rules of Order.

Section 2-1017 Quorum.

A majority of the actual membership of the council shall constitute a quorum.

State Law Reference: Majority of the actual membership of the governing body constitutes a quorum. G.S. 160A-74. (See Related State Laws)

Section 2-1018 Previous questions.

The previous question may be called at any time by a majority of the members of the board present. The "ayes" and "nays" may be called for by any member. (Code 1970, Sec. 2-14)

Section 2-1019 ~~Motions~~ Motions having precedence.

(a) When a question is under consideration, no motion shall be received, except as follows:

- (1) To lay on the table.
- (2) To postpone to a time certain.
- (3) To postpone indefinitely.
- (4) To refer to a committee.
- (5) To amend.
- (6) To strike out or insert.
- (7) To divide.

(b) Motions for any of these purposes shall have precedence in the order named. (Code 1970, Sec. 2-15)

Section 2-1020 Motion to adjourn.

A motion to adjourn shall always be in order and shall be decided without debate. (Code 1970, Sec. 2-16)

Section 2-1021 Committees generally.

All committees shall, unless otherwise ordered, be appointed by the mayor. All reports of committees shall be in writing, if required by the Mayor, and committeemen shall receive such compensation for extra and special service as the board may designate.

Section 2-1022 When board elections to be by ballot.

All elections by the board shall be by ballot, if required by any two (2) members present. (Code 1970, Sec. 2-18)

Section 2-1023 Resignation of members.

Resignation of any member of the council shall be in writing and the resignation shall lie on the table until the next regular meeting unless considered by unanimous consent.

Section 2-1024 When mayor may vote.

When there is an equal division of the board upon any question, or in the election of officers, the mayor may vote to break a tie, but shall have no vote under any other circumstances. (Code 1970, Sec. 2-20)

State Law Reference: G.S. 160A-79.

Section 2-1025 Mayor pro tempore.

At the first meeting after their election the council shall select one of their members to act as mayor pro tempore during his term of office, and he shall, in case of sickness or absence of the mayor, perform all the duties of the mayor, and shall be compensated for his services as prescribed by the council.

State Law Reference: G.S. 160A-70. (See Related State Laws)

Section 2-1026 Vacancies in office.

Any vacancy caused by the death, resignation or disqualification of a member of the council shall be filled by a majority vote of the council.

State Law Reference: G.S. 160A-63. (See Related State Laws)

Section 2-1027 Members moving from town.

If any member of the council shall move his residence from the town, his office shall at once be declared vacant, and shall be filled as provided by section 2-1026.

Section 2-1028 through section 2-1030 reserved.

ARTICLE C
Ordinances

Section 2-1031 Effective date.

All ordinances shall be effective after the ratification thereof except ordinances specifying some other effective date or ordinances required by state law to be effective only after having met specific date requirements.

Section 2-1032 Ordinances confined to one subject.

All ordinances shall be confined to one subject except appropriation ordinances which shall be confined to the subject of appropriation only.

Section 2-1033 Official copy.

A true copy of an ordinance, which has been duly enacted by the council, signed by the mayor, and attested to by the clerk shall be known as an official copy of any ordinance for the town. All ordinances or a true copy thereof shall be inserted in this code in the proper chapter.

Section 2-1034 Ordinance book.

The clerk shall file a true copy of each ordinance, until it is codified in this code, in an ordinance book separate and apart from the council's minute book. The ordinance book shall be appropriately indexed and maintained for public inspection in the office of the clerk.

State Law Reference: For similar requirements on the ordinance book, see G.S. 160A-78.

CHAPTER 2
Administration Organization

ARTICLE A

Administrative Offices

- Section 2-2001 Appointment of town manager, qualifications generally.
- Section 2-2002 Manager to be chief administrative officer.
- Section 2-2003 Residence to be chief administrative officer.
- Section 2-2004 Council members not eligible to be manager.
- Section 2-2005 Term of manager; removal.
- Section 2-2006 Powers as to town officers and employees-generally
- Section 2-2007 Same; removals.
- Section 2-2008 Same; council not to interfere.
- Section 2-2009 Duties of manager generally.
- Section 2-2010 Reserved.
- Section 2-2011 Duties of clerk generally.
- Section 2-2012 Appointment of town treasurer.
- Section 2-2013 Duties of treasurer generally.
- Section 2-2014 Appointment of town attorney.
- Section 2-2015 Duties of town attorney generally.
- Section 2-2016 Appointment of town tax collector.
- Section 2-2017 Duties of town tax collector generally.
- Section 2-2018 Appointment of town engineer.
- Section 2-2019 Duties of town engineer generally.
- Section 2-2020 Appointment of superintendent of public work.
- Section 2-2021 Duties of superintendent of public works generally.
- Section 2-2022 Appointment of town accountant.
- Section 2-2023 Duties of town accountant generally.
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ARTICLE B

Other Administrative Provisions

- Section 2-2031 Interest of town officers or employees in town contracts.
- Section 2-2032 Consolidation of offices.
- Section 2-2033 Town office hours.

ARTICLE A
Administrative Offices

Section 2-2001 Appointment of town manager; qualification generally.

The council shall appoint an officer whose title shall be town manager. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as outlined in this article. (Code 1970, Sec. 2-28)

Section 2-2002 Manager to be chief administrative officer.

The manager shall be the chief administrative officer and the head of the administrative branch of the town government. (Code 1970, Sec. 2-29)

State Law Reference: Powers and duties of the manager. G.S. 160A-148

Section 2-2003 Residence qualifications of manager.

At the time of the town manager's appointment, the manager need not be a resident of the town or the State. During the manager's tenure of office, the manager shall reside within the town; provided, however, after a town manager has been appointed and has established residency within the town, the town council in its discretion may waive this residency requirement upon such terms and conditions as the town council may determine. (Code 1970, Sec. 2-30; Res. of 3/3/14)

Section 2-2004 Council members not eligible to be manager.

No person elected to membership on the council shall, subsequent to such election, be eligible for appointment as manager until one (1) year has elapsed following the expiration of the term for which he was elected.

State Law Reference: For similar state law provisions on ineligibility of broad members to be manager, see G. S. 160A-151.

Section 2-2005 Term of manager; removal.

The manager shall be appointed for an indefinite term but may be removed by a majority vote of the council. At least 30 days before the removal may become effective the manager shall be furnished with a formal statement in the form of a resolution passed by a majority vote of the members of the council.

Section 2-2006 Powers as to town officers and employees - generally.

The manager shall be responsible to the council for the proper administration of all affairs of the town placed in his charge, and to that end, subject to the provisions of the charter and except as otherwise provided in this code or by ordinance or resolution, he shall have the power to appoint and remove all officers and employees in administrative service, of the town, except those whose appointment is otherwise provided for under the General Statutes or the charter of the town; but the manager may authorize the head of a department or office responsible to him to appoint and remove subordinates in such department or office.

Appointments made by, or under the authority of, the manager shall be on the basis of executive and administrative ability and of the training and experience of such appointees in the work which they are to perform. Subject to the personnel policy, all such appointments shall be without definite term except provisional, temporary or emergency service.

Section 2-2007 Same: removals.

Subject to the provisions of the personnel policy, any officer or employee to whom the manager, or a head of a department or office may appoint a successor, may be removed by the manager or other appointing officer at any time. In the event a department head is dismissed, he shall possess the right to appeal such dismissal to the council within 30 days. Otherwise, and subject to the provisions of the personnel policy the decision of the manager, or other appointing officer, shall be final and there shall be no appeal therefrom to any other office, body or court whatsoever.

Section 2-2008 Same; council not to interfere.

Neither the council nor any of its committees or members shall direct or request the appointment of any person to, or his removal from, office by the manager or any of his subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative service of the town. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the manager and neither the council nor any member thereof shall give orders to any subordinate of the manager either publicly or privately.

Section 2-2009 Duties of manager generally.

It shall be the duty of the manager to:

- (1) Act as director of finance and purchasing agent.
- (2) Act as chief conservator of the peace within the town.
- (3) Supervise the administration of the affairs of the town.
- (4) See that the provisions of this code and other ordinances of the town and the laws of the state are enforced.
- (5) Make such recommendations to the council concerning the affairs of the town as may seem to him desirable.
- (6) Keep the council advised of the financial condition and future needs of the town.
- (7) Prepare and submit to the council the annual budget estimate.
- (8) Prepare and submit to the council such report as may be required by that body.
- (9) Perform such other duties as may be required of him by ordinance or resolution of the council.
- (10) Delegating authority to purchase apparatus, supplies, materials or equipment.
 - (a) Graft of Authority. Subject to the restrictions and conditions hereinafter provided, when purchasing apparatus, supplies, materials or equipment for use by the Town of Valdese, in addition to such authority as may be provided by law and/or otherwise delegated by the Town Council, the Town Manager shall have the authority to:

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1. prepare, or cause to be prepared, plans and/or specifications setting forth a complete description of the item(s) to be purchased and the characteristics, features and/or requirements therefore;

2. include, where appropriate, in specifications for the item(s) to be purchased an opportunity for bidders to purchase as trade-in specified personal property owned by the Town of Valdese;

3. advertise, or otherwise secure bids, for such items(s), if required under applicable law;

4. award contracts for the purchase of the item(s) and, where applicable, award contracts for the purchase of the item(s) and the sale of trade-in property;

5. reject bids;

6. readvertise to receive bids;

7. waive bid bond or deposit requirements,

8. waive performance and payment bond requirements, and,

9. execute and deliver the purchase contract(s).

(b) Report. At the first meeting of the Town Council following the award of any contracts pursuant to this Ordinance, the Town Manager shall submit a report to the Town Council summarizing the bids received and the contract(s) awarded. Such report shall be included in the minutes of the meeting at which it is received.

(c) Extent of Authority. Except in cases of sole source purchases pursuant to NC General Statute 143-129(f) and cases of purchases from established contracts pursuant to NC General Statute 143-129(g), unless otherwise provided by law, the provisions of this chapter shall apply to the purchase of all apparatus, supplies, materials or equipment required for use by the Town of Valdese.

(d) No Limitation of Other Authority. The provisions of this chapter are not intended to limit, restrict or revoke, in any manner, authority otherwise granted and/or delegated to the Town Manager by statute, law or action of the Town Council.

(e) Appropriation Required. No purchase shall be made by the Town Manager under authority of this chapter unless an appropriation of such purpose has been authorized in the annual budget, or by supplemental appropriation or budget appropriation amendment duly adopted by the Town Council.

(f) Application of General Statutes. In acting pursuant to the authority delegated by this chapter, the Town Manager shall comply with the requirements of Article 8, Chapter 143 of the North Carolina General Statutes, as from time to time amended, modified, supplemented, revised, or superseded, to the same extent as would have otherwise applied to the Town Council.

(g) Authority. This chapter is enacted pursuant to the provisions of NC General Statute 143-129(a). (Ord. of 2-23-98)

(11) Prescribing procedures for disposing of personal property valued at less than \$5,000.

(a) The Town Manager is hereby authorized to dispose of any surplus personal property owned by the town, whenever he or she determines, in his or her discretion that:

1. the item or group of items has a fair market value of less than five thousand dollars (\$5,000.00);

2. the property is no longer necessary for the conduct of public business; and,

3. sound property management principles and financial considerations indicate that the interests of the town would best be served by disposing of the property.

(b) The Town Manager may dispose of any such surplus personal property by any means which he or she judges reasonably calculated to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale provided in Article 12 of NC General Statutes, Chapter 160A. Such sale may be public or private, and with or without notice and minimum waiting period.

(c) The surplus property shall be sold to the party who tenders the highest offer, or exchange for any property or services useful to the town if greater value may be obtained in that manner, and the Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the Town Council.

(d) The Town Manager shall keep a record of all property sold under authority of this chapter and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

(e) This chapter is enacted pursuant to the provisions of NC General Statutes 160A-266(c). (Ord. of 2-23-98)

State Law Reference: Duties of manager, G.S. 160A-148.

Section 2-2010 Reserved.

Section 2-2011 Duties of clerk generally.

It shall be the duty of the clerk to:

- (1) Act as secretary to the council.
- (2) Keep a true record of all the proceedings of the council.
- (3) Keep the original of all ordinances in a book especially provided for that purpose.
- (4) Act as custodian for all the books, papers, records and journals of the council.
- (5) Perform other duties as may be required of him by law or by the council.

State Law Reference: Duties of clerk specified. G.S. 160A-71.

Section 2-2012 Appointment of town treasurer.

The town manager shall appoint a town treasurer to perform the duties specified below.

Section 2-2013 Duties of treasurer generally.

It shall be the duty of the treasurer to:

- (1) Receive and faithfully keep moneys which he shall receive on behalf of the town.
- (2) Keep an accurate account of all moneys deposited with him or by him and disbursed by him for the town.
- (3) Supply the council with such information as it may require of him relative to finances.

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(4) Make a semiannual report to the council of all receipts and disbursements of funds of the town.

(5) Honor all orders drawn on him signed by the assistant treasurer, attested by the treasurer and under the seal of the town, and for which purpose an appropriation has been made, that are presented to him.

State Law Reference: Duties of finance officer or treasurer. G.S. 159-25.

Section 2-2014 Appointment of town attorney.

The town council shall appoint a town attorney to perform the duties specified below.

Section 2-2015 Duties of town attorney generally.

It shall be the duty of the attorney to:

- (1) Prosecute for and defend suits against the town.
- (2) Advise the mayor, manager, council, or any other officer of the town in regard to matters connected with the town's business.
- (3) Attend meetings of the council when requested to do so by it.
- (4) Draw such deeds, contracts, bonds, notes and other legal papers as may be required for the proper conduct of the town's business.
- (5) Draw all ordinances granting franchises.
- (6) Approve all ordinances as to form before their introduction.

State Law Reference: Duties of town attorney. G.S. 160A-173.

Section 2-2016 Appointment of town tax collector.

The town council shall provide for the appoint-ment of a tax collector to perform the duties specified below.

Section 2-2017 Duties of town tax collector generally.

It shall be the duty of the tax collector to:

- (1) Collect all taxes due the town.
- (2) Make an accounting to the town treasurer at the end of each month.
- (3) Pay over to the treasurer such moneys as are collected by him for the account of each separate fund according to the tax levy.
- (4) Deliver a list of all unpaid taxes with the reason therefor as ascertainable to the council.
- (5) Supply the manager and council with such information as they may require of him relative to his department.
- (6) Make a monthly report to the council listing therein all funds collected by him.
- (7) Act as registrar of motor vehicles as provided in section 7-1011 et seq.

State Law Reference: Duties of tax collector. G.S. 105-349.350.

Section 2-2018 Appointment of town engineer.

The town manager shall appoint a town engineer to perform the duties specified below.

Section 2-2019 Duties of town engineer generally.

It shall be the duty of the town engineer to:

- (1) Make an accurate survey of the town with respect to zoning requirements and town limits and keep the same up to date.
- (2) Do such further acts as the council or the manager shall require.

Section 2-2020 Appointment of superintendent of public works.

The town manager shall appoint a superintendent of public works to perform the duties specified below.

Section 2-2021 Duties of superintendent of public works generally.

It shall be the duty of the superintendent of public works to:

- (1) Supervise and maintain the public works department.
- (2) Supervise the construction and maintenance of streets.
- (3) Supervise the construction and maintenance of water and sewer lines.
- (4) Supervise the collection and disposal of all garbage and rubbish.
- (5) Supervise the maintenance of all town vehicles.
- (6) Do such other and further acts as the council or the manager may require. (As amended 11/3/80)

Section 2-2022 Appointment of town accountant.

The town council shall, on the recommendation of the manager, appoint an accountant for the town.

Section 2-2023 Duties of town accountant generally.

It shall be the duty of the town accountant to:

- (1) Regularly audit and report true findings of all town departments as often as the council shall prescribe.
- (2) Do such other and further acts as the council or the manager may require.

Section 2-2024 through section 2-2030 reserved.

ARTICLE B
Other Administrative Provisions

Section 2-2031 Interest of town officers or employees in town contracts.

No member of the council or other officer or employee of the town shall be pecuniarily interested, directly or indirectly, in any contract made or entered into by the council, nor in any matter where the rights or liabilities of the town are, or may be, involved.

State Law Reference: Conflicts of interest. G.S. 14-234.

Section 2-2032 Consolidation of offices.

Except as otherwise provided by law, the council may in its discretion consolidate any two (2) or more offices and assign the duties of both offices to one (1) or more persons

Section 2-2033 Town office hours.

The town office will be open from 8:00a.m. to 5:00p.m. Monday through Friday. The office will be closed on Saturday, Sunday and on all legal holidays. (Code 1970, Sec. 2-1)

CHAPTER 3
Departmental Operating Organization
(Reserved)

Cross Reference: Police and fire department provisions are found in Part 3, Public Safety.

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CHAPTER 4
Financial Administration

ARTICLE A

Purchasing

Section 2-4001 Purchasing.

Section 2-4002 through Section 2-4010 reserved.

ARTICLE B

Section 2-4011 Fiscal year.

Section 2-4012 Date of assessment.

Section 2-4013 Partial payment of taxes.

Section 2-4014 Apportionment and release of lien.

Section 2-4015 Applicability of Sections 2-4013 and 2-4014.

Section 2-4016 Franchises now in effect.

Section 2-4017 through Section 2-4050 reserved.

ARTICLE C

Fiscal Procedures (Reserved)

ARTICLE D

Gross Receipts Tax on Retail Short-Term Lease or Rental of Vehicles.

Section 2-4051 Definitions.

Section 2-4052 Levy of tax.

Section 2-4053 Collection of the tax.

Section 2-4054 Report and payment of tax.

Section 2-4055 Taxpayer to keep records.

Section 2-4056 Tax collector to provide forms.

Section 2-4057 Situs.

Section 2-4058 Penalties and remedies.

Section 2-4059 Administration.

Section 2-4060 through Section 2-4080 reserved.

ARTICLE E

Section 2-4081 Citation.

Section 2-4082 Definitions.

Section 2-4083 Ratification of existing permits.

Section 2-4084 Levy of tax.

Section 2-4085 Period for which tax due.

Section 2-4086 Report and payment of tax.

Section 2-4087 Refunds.

Section 2-4088 Penalties and remedies.

Section 2-4089 Administration.

Section 2-4090 Confidentiality of records.

Section 2-4091 Article cumulative.

ARTICLE A
Purchasing

Section 2-4001 Purchasing.

(a) In accordance with the Local Government Budget and Fiscal Control Act, no bill or claim against the town may be paid unless it has been approved by the officer or employee responsible for the function or agency to which the expense is charged. No check or draft of the town shall be valid unless it bears on its face the certificate of the purchasing agent as follows:

“This disbursement has been approved as require by the Local Government Budget and Fiscal Control Act.”

(b) No contract, agreement, or purchase order shall be valid unless it bears the purchasing agent's certificate as follows:

“This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.”

State Law Reference: G.S. 159-28, as amended.

Cross Reference: Town manager to serve as purchasing agent, Section 2-2009(1).

Editorial Note: The town has a joint purchasing agreement for office and street supplies with the City of Morganton and the Town of Drexel (Resolution passed on March 3, 1975).

Section 2-4002 through section 2-4010 reserved.

ARTICLE B**Finance and Taxation Generally**

State Law Reference: Taxation authority generally, G.S. §160a-206 et seq.

Cross Reference: Duty of manager as to finance. Section 2-2009(1), 2-2009(6), 2-2009(7).

Town Treasurer. Section 2-2012 and 2-2013. Tax collector. Section 2-016 and 2-2017.

Section 2-4011 Fiscal year.

The fiscal year for the town shall commence on July 1 of each year and end on June 30 of the following year. (Code 1970, Sec. 2-55)

Section 2-4012 Date of assessment.

All property, real and personal shall be listed and assessed, as the case may be, in accordance with ownership and value as of January 1 of each year. (Code 1970, Sec. 2-56)

Section 2-4013 Partial payment of taxes.

Unless otherwise directed by the governing body, the tax collector shall, at any time, accept partial payments on taxes and issue a partial payment receipt therefor. In crediting the payment on the tax for any year or on any installment, the payment shall first be applied to accrued penalties, interest, and costs and then to the principal amount of such tax or installment. (Code 1970, Sec. 2-57)

Section 2-4014 Apportionment and release of lien.

In order to avoid undue hardship, the tax collector may release a particular tract or parcel of real estate from the tax lien of the town when a change in the ownership of such property has occurred since the listing date for the year proposed to be paid, upon payment by the owner of such property of the tax against the same and upon the payment of all unpaid personal property tax with interest and penalties thereon, and all costs allowed by law, against the party in whose name such property was listed. The party paying the personal property tax of another shall be subrogated to the rights of the town with respect to such tax, and the tax collector shall assign to such party all rights of the town with respect to such item of personal property tax. (Code 1970, Sec. 2-58)

Section 2-4015 Applicability of Sections 2-4013 and 2-4014.

The rules stated in the two (2) preceding sections shall apply in cases where property has been sold for taxes and the town is the holder of the certificate of sale; provided, that no suit has been instituted to foreclose such certificate; provided, further, that the first applicant for a release in accordance with the provisions of section 2-4014 shall pay the cost of advertising, selling, and issuing of certificate of sale. (Code 1970, Sec. 2-59)

Section 2-4016 Franchises now in effect.

Copies of all franchises and agreements now in effect shall be found on file in the town clerk's office. (Code 1970, Sec. 2-61)

Section 2-4017 through Section 2-4050 reserved.

Editorial Note: The town repealed its privilege license taxation ordinances effective June 30, 1969.

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ARTICLE C
Fiscal Procedures
(Reserved)

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ARTICLE D**Gross Receipts Tax on Retail Short-Term Lease or Rental of Vehicles.****Section 2-4051 Definitions.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Customer. Any person that leases or rents a vehicle on a short-term lease or rental basis.

General Statutes. The North Carolina General Statutes; any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised, or superseded.

Gross receipts. The amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

Lease or rental. A transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:

(1) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(2) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of \$100 or 1% of the total required payments.

(3) The providing of tangible personal property along with an operator for a fixed or indeterminate period of time, if the operator is necessary for the equipment to perform as designed. For the purpose of this definition, an operator must do more than maintain, inspect, or set up the tangible personal property. (G.S. 105-164.3(7A))

Long-term lease or rental. A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days. (G.S. 105-187.1(3))

Person. Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

Short-term lease or rental. Any lease or rental of a vehicle that is not a long-term lease or rental. (G.S. 160A-215.1(e)(1) and G.S. 105-187.1(7))

Tax Collector. That individual appointed by the governing body pursuant to G.S. 105-349 to collect taxes

on behalf of the town, any other person authorized to carry out the duties and functions of such individual.

Taxpayer. Any person liable for the taxes imposed by this article.

Vehicle. Any of the following:

(1) A private vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

(2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight rating of 26,000 pounds or less that is used predominantly in the

transportation of property for other than commercial freight and that does not require the operator to possess a commercial driver's license.

(3) A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less. (G.S. 160A-215.1(e)(1)) (Ord. of 6/12/00)

Section 2-4052 Levy of Tax.

A tax is hereby imposed and levied in an amount equal to 1.5% of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211. (Ord. of 6/12/00)

Section 2-4053 Collection of the Tax.

Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this article. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this article of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the town. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector, and the taxpayer's failure to charge or to collect the tax from the customer shall not affect such liability. (Ord. of 6/12/00)

Section 2-4054 Report and Payment of Tax.

Taxes levied under this article are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the 15th day of the month following the month in which the tax accrues. As provided in G.S. 160A-208.1, a return shall not be considered a public record, and information contained in a return may be disclosed only in accordance therewith. (Ord. of 6/12/00)

Section 2-4055 Taxpayer to Keep Records.

The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this article. It shall be the duty of the taxpayer to keep and preserve for a period of three (3) years all such records of gross receipts and other books and accounts described. All records, books, and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his or her duly authorized agent. (Ord. of 6/12/00)

Section 2-4056 Tax Collector to Provide Forms.

The Tax Collector shall design, prepare, print, and make available to all taxpayers operating within the municipal boundaries of the town forms and instructions for filing returns to

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insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided. (Ord. of 6/12/00)

Section 2-4057 Situs.

The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. (G.S. 160A-215.1(b)) (Ord. of 6/12/00)

Section 2-4058 Penalties and Remedies.

The provisions with respect to remedies and penalties applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this article, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes. (G.S. 160A-215.1(f)) (Ord. of 6/12/00)

Section 2-4059 Administration.

In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105 of the General Statutes. (G.S. 160A-215.1(d)) (Ord. of 6/12/00)

Section 2-4060 through 2-4080 reserved.

ARTICLE E
Franchise Tax on Electric Power

Section 2-4081 Citation.

This article shall be known and may be cited as the town Franchise Tax on Electric Power Ordinance. (Ord. of 6/3/02)

Section 2-4082 Definitions.

Except as otherwise provided in this article, the definitions of words, terms, and phrases as set forth and/or applied in G.S. Chapter 105, Article 3, are hereby adopted by reference and made a part hereof. Reference to any provision or provisions in the General Statutes shall include the same as may be from time to time amended, modified, supplemented, revised, or superceded. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Secretary of Revenue. The Secretary of Revenue of the state.

State Franchise Tax Act. G.S. Chapter 105, Article 3.

Tax Collector. The department of the town government or the official agency of the state designated by law and authorized by law to administer the collection of the tax herein levied.

Taxpayer(s). Any electric power company liable for the taxes imposed by this article.

Town. The town of Valdese.

Town franchise tax. The franchise or privilege tax imposed on an electric power company engaged in the business of furnishing electricity, electric lights, current, or power as provided in G.S. Chapter 105, Article 3, entitled "Franchise Tax." (Ord. of 6/3/02)

Section 2-4083 Ratification of Existing Permits.

All valid and subsisting permits to do business issued by the Secretary of Revenue pursuant to the Revenue Act are, for the purposes of this article, hereby ratified, confirmed, and adopted in lieu of any requirement for an additional town permit for the same purpose. (Ord. of 6/3/02)

Section 2-4084 Levy of Tax.

A franchise tax is hereby levied and imposed for the period(s) designated in Section 2-2085 of this article upon the electric power companies engaged in the business of furnishing electricity, electric lights, current, or power within the corporate limits of the town. The tax shall be 3.09% of the companies' taxable gross receipts from the business of furnishing electricity, electric lights, current, or power within the corporate limits of the town. It is intended that taxable gross receipts hereunder shall be the same as those taxable under the State Franchise Tax Act. (Ord. of 6/3/02)

Section 2-4085 Period for which Tax Due.

When a distribution to the town as required under the State Franchise Tax Act shall not be made, the town franchise tax shall be levied for the periods herein described. A period for which the tax shall be due shall begin on the first day of the first calendar month following

the month during which a distribution under the State Franchise Tax Act was due, but not made, to the town, and shall continue from month to month until such time as a distribution as required under the State Franchise Tax Act shall be made. The town shall notify taxpayers within a reasonable time after a required distribution is or is not made by the Secretary of Revenue. (Ord. of 6/3/02)

Section 2-4086 Report and Payment of Tax.

The tax shall be paid to the Tax Collector at the time and in the form and manner provided for the payment of sales and use taxes pursuant to and in accordance with G.S. 105-164.16 as the same applies to a taxpayer who is consistently liable for more than \$100 but less than \$10,000 a month. As applicable to sales and use taxes, such a taxpayer must file a return and pay the taxes due on a monthly basis. The tax shall be due and payable when a return is required to be filed. (Ord. of 6/3/02)

Section 2-4087 Refunds.

Upon the resumption of distributions by the Secretary of Revenue as required under the State Franchise Tax Act, a refund may be due to a taxpayer as specified in this section. A refund in the amount indicated herein below shall be due to a taxpayer within thirty (30) days after presentation to the town by the taxpayer of a written certification made by the Secretary of Revenue stating that portion of the town's percentage distribution amount of the state franchise tax that was paid by the taxpayer and allocable to the calendar quarter for which the most recent distribution was made. The amount of a refund shall equal the portion of the percentage distribution amount designated by the Secretary of Revenue. (Ord. of 6/3/02)

Section 2-4088 Penalties and Remedies.

The provisions with respect to remedies and penalties applicable to the State Franchise Tax Act, as contained in G.S. Chapter 105, Subchapter I, Article 9, shall be applicable in like manner to the tax authorized to be levied and collected under this article, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the town may exercise any power the Secretary of Revenue may exercise in collecting the state franchise tax. (Ord. of 6/3/02)

Section 2-4089 Administration.

In addition to the provisions herein and to the extent that the same are not inconsistent with the provisions of this article, the levy and collection of taxes herein imposed shall be otherwise administered in the same manner as the State Franchise Tax Act, as contained in G.S. Chapter 105, Subchapter I, Article 9. (Ord. of 6/3/02)

Section 2-4090 Confidentiality of Records.

The confidential and privileged nature of the records and files concerning the administration of the town franchise tax is legislatively recognized and declared, and to protect the same the provisions of G.S. Chapter 105 are adopted by reference and made fully

effective and applicable to administration of the tax levied herein as if set forth in full. (Ord. of 6/3/02)

Section 2-4091 Article Cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of town ordinances. (Ord. of 6/3/02)

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CHAPTER 5
Social Security and Retirement

ARTICLE A

Social Security

Section 2-5001 Social Security agreement entered into.

Section 2-5002 Coverage; exclusion.

Section 2-5003 through section 2-5010 reserved.

ARTICLE B

Retirement

Section 2-5011 Town secures benefits of North Carolina Retirement System.

Section 2-5012 Agreement with the North Carolina Local Governmental Employees' Retirement System.

ARTICLE A
Social Security

Section 2-5001 Social Security agreement entered into.

It is agreed that the *state agency is hereby authorized to include, effective, April 1, 1956, individuals as employees in temporary part-time, temporary and part-time regular positions under provisions of the agreement which was made and entered into on February 6, 1956, by and between this town and the Secretary of the Board of Trustees of the Teachers' and State Employees' Retirement System. (Ord. of 2/6/56, Sec. 1)

*Editorial Note: The "state agency " is the Board of Trustees of the Teachers' and State Employees' Retirement System.

Section 2-5002 Coverage; exclusion.

It is agreed between the town and the state agency that the services of members of all governing boards will be covered under Social Security by this agreement, provided the following optional exclusion is ruled out and initialed by the mayor, chairman, or other office empowered to execute this agreement:

Services of elective officials comprising the governing board and members of all other boards, commissions, councils, committees where such positions are filled by the General Assembly, a board or committee or by the qualified electorate of the particular jurisdiction involved and the members of any and all other said boards whose duties require not more than 1,000 hours of service per year. (Ord. of 2/6/56, Sec. 1)

Section 2-5003 through section 2-5010 reserved.

ARTICLE B
Retirement

Section 2-5011 Town secures benefits of North Carolina Retirement System.

The Town of Valdese hereby elects to secure said benefits for its employees in the North Carolina Local Governmental Employees' Retirement System. (Res. of 7/8/74, Sec. 1)

Section 2-5012 Agreement with the North Carolina Local Governmental Employees' Retirement System.

The town hereby agrees to comply with all provisions of the North Carolina Local Governmental Employees' Retirement System as defined in Article 3, Chapter 128 of the General Statutes of North Carolina, as amended, and to make such increased employer's contributions as the Local Governmental Employees' Retirement System may determine to be necessary in order to provide said benefits. (Res. of 7/8/74, Sec. 2)

The town is hereby ordered and directed to execute an agreement with the Director of the North Carolina Local Governmental Employees' Retirement System to implement the benefits of Chapter 1310 of the Session Laws of 1973 (2nd Session, 1974). (Res. of 7/8/74, Sec. 3)

CHAPTER 6
(Reserved)

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CHAPTER 7
Boards and Commissions

ARTICLE A

Planning and Zoning Board

Section 2-7001 Board created.

Section 2-7002 Composition.

Section 2-7003 Appointment of members.

Section 2-7004 Terms of members; filling vacancies.

Section 2-7005 Qualifications and compensation of members.

Section 2-7006 Removal of members.

Section 2-7007 Organization.

Section 2-7008 Rules; records; meetings; quorum.

Section 2-7009 Powers and duties generally.

Section 2-7010 Basic studies; cooperation of town officials; right of entry, etc.

Section 2-7011 Comprehensive plan; generally.

Section 2-7012 Same; public hearings thereon.

Section 2-7013 Zoning ordinance.

Section 2-7014 Subdivision regulations.

Section 2-7015 Publicity and education.

Section 2-7016 Committees, employees and expenditures generally.

Section 2-7017 Authority as to contributions.

Section 2-7018 Annual report, analysis of expenditures and budget request.

Section 2-7019 through section 2-7020 reserved.

ARTICLE B

Parks and Recreation Commission

Section 2-7021 Town to assume responsibilities.

Section 2-7022 through section 2-7030 reserved.

ARTICLE C

Housing Authority

Section 2-7031 Authority created.

Section 2-7032 Members, number, initial appointments.

Section 2-7033 through section 2-7039 reserved.

ARTICLE D

Town Arbor - Beautification Committee

Section 2-7040 Committee created.

Section 2-7041 Members, number, initial appointments.

Section 2-7042 Qualifications and compensation of members.

Section 2-7043 Removal of members.

Section 2-7044 Organization.

Section 2-7045 Rules; records; meetings; quorum.

Section 2-7046 Powers and duties generally.

Section 2-7047 Appropriation, budgeting of funds.

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ARTICLE A
Planning and Zoning Board

Section 2-7001 Board created.

The planning and zoning board is hereby created. (Code 1970, Sec. 2-62)

Section 2-7002 Composition.

The planning board shall consist of five (5) members. (Code 1970, Sec. 2-63; as amended 11/3/80)

Section 2-7003 Appointment of members.

The five (5) members of the planning board for that area within the town shall be appointed by the mayor and approved by the town council. (As amended 11/3/80)

Section 2-7004 Terms of members; filling vacancies.

Each member of the planning board shall be appointed for a term of four (4) years, and the original appointments shall be made in the following manner: One (1) member for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. At the expiration of the terms of all members first appointed, all new or reappointed members shall be for a full term of four (4) years. Vacancies occurring otherwise shall be for the unexpired term and shall be made by the mayor with the approval of the town council. (Code 1970, Sec. 2-65; as amended 11/3/80)

Section 2-7005 Qualifications and compensation of members.

(a) The members of the planning and zoning board shall be persons of recognized experience and qualifications and shall hold no other official position.

(b) All members of the planning and zoning board shall serve as such without compensation. (Code 1970, Sec. 2-66)

Section 2-7006 Removal of members.

(a) Members may, after public hearing, be removed from the planning and zoning board by the mayor for inefficiency, neglect of duty or malfeasance in office.

(b) The membership of any member who is absent from four (4) consecutive meetings, or whose percentage of attendance over any period of 12 consecutive months is less than 60 percent, shall automatically be terminated, unless such absence is excused by the full planning and zoning board for good and sufficient cause. (Code 1970, Sec. 2-67)

Section 2-7007 Organization.

(a) The planning and zoning board shall elect a chairman, vice-chairman, secretary and such other officials as may be necessary, from among its members, to serve for a period of one year, with eligibility for reelection.

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(b) The planning and zoning board shall hold a meeting for the election of officers at the first meeting in ~~February~~February of each year. (Code 1970, Sec. 2-68)

Section 2-7008 Rules; records; meetings; quorum.

The planning and zoning board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. The board shall hold at least one meeting quarterly, and all of its meetings shall be open to the public. There shall be a ~~quomm~~quorum of five (5) members for the purpose of taking any official action required by this article. (Code 1970, Sec. 2-69)

Section 2-7009 Powers and duties generally.

(a) It shall be the function and duty of the planning and zoning board to make comprehensive surveys and studies of existing conditions and probable future developments and prepare such plans for physical, social and economic growth as will best promote the public health, safety, morals, convenience of the general welfare as well as efficiency and economy in the development of the town.

(b) In general, the planning and zoning board shall have the power and duty to:

(1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions;

(2) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

(3) Establish principles and policies for guiding action in the development of the area;

(4) Prepare and recommend to the town council ordinances promoting orderly development in accordance with the comprehensive plan;

(5) Determine whether specific proposed de~~-~~velopments conform to the principles and re~~-~~quirements of the comprehensive plan for the growth and improvement of the area;

(6) Keep the council and the general public informed and advised as to these matters;

(7) Prepare and n commend for adoption a zoning ordinance and map;

(8) Prepare and recommend for adoption subdivision regulations and to administer such regulations.

Cross Reference: Subdivision regulations are codified as section 9-3001 et seq. Zoning ordinance is codified as section 9-4001 et seq.

State Law Reference: Zoning and subdivision regulations are covered in G.S. 160A-J60 et seq.

Section 2-7010 Basic studies; cooperation of town officials; right of entry, etc.

(a) The planning and zoning board may collect maps and aerial photographs of manmade and natural physical features of the area, statistics on past trends and present conditions with respect to population, property values, the economic base of the area, land use and such other information as is important or likely to be important in the preparation of a comprehensive plan of development for the planning area and its various parts.

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(b) In addition, the planning and zoning board may make special studies on the location, condition and adequacy of specific facilities, which may include but are not limited to studies of housing, commercial and industrial facilities, parks, playgrounds and recreational facilities, public and private utilities and traffic, transportation and parking facilities.

(c) All town officials shall, upon request, furnish to the planning and zoning board such available records or information as it may require in its work. The board or its agents may, in the performance of its official duties, enter upon lands and make examinations or surveys and maintain necessary monuments thereon. (Code 1970, Sec. 2-71)

Section 2-7011 Comprehensive plan; generally.

(a) The comprehensive plan, with the accompanying maps, plats, charts and descriptive matter, shall be and show the planning and zoning board's ~~recommendations~~ recommendations to the town council the development of the planning area, including, among other things, the general location, character and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks, aviation fields and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, lights, sanitation, transportation, communication, power and other purposes, the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals, the most desirable pattern of land use within the area, including areas for residential uses, for farming and forestry, for manufacturing and industrial uses, for commercial uses, for recreational uses, for open spaces, for mixed uses and for other features.

(b) The plan and any ordinance or other measures to effectuate it shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangements, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services and other public requirements.

Section 2-7012 Same; public hearings thereon.

The planning and zoning board may conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plan. Before adopting any such plan it shall hold at least one public hearing thereon. (Code 1970, Sec. 2-73)

Section 2-7013 Zoning ordinance.

(a) The planning and zoning board shall prepare and submit a zoning ordinance to the town council for its consideration and possible adoption in accordance with the provisions of article 19 of chapter 160A of the General Statutes of North Carolina, as amended.

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(b) The planning and zoning board may initiate, from time to time, proposals for amendment of the zoning ordinance, based upon its studies and the comprehensive plan. In addition, it shall review and make recommendations to the town council concerning all proposed amendments to the zoning ordinance.

Section 2-7014 Subdivision regulations.

The planning and zoning board shall prepare and submit subdivision regulations to the town council for its consideration and adoption.

Section 2-7015 Publicity and education.

The planning and zoning board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine. (Code 1970, Sec. 2-76)

Section 2-7016 Committees, employees and expenditures generally.

The planning and zoning board is authorized to appoint such committ~~e~~es and employees, and to authorize such expenditure~~e~~s, as it may see fit, subject to limitations of funds provided for the planning and zoning board by the town council.

Section 2-7017 Authority as to contributions.

The planning and zoning board is authorized to receive contributions from private agencies and organizations or from individuals, in addition to any sums which may be appropriated for its use by the town council. It may accept and disburse such contributions for special purposes or projects, subject to any specific conditions which it deems acceptable, whether or not such projects are included in the approved budget.

Section 2-7018 Annual report, analysis of expenditures and budget request.

The planning and zoning board shall, annually, submit to the town council a written report of its activities, an analysis of the expenditures to date for the current fiscal year and its requested budget of funds needed for operation during the ensuing fiscal year.

State Law Reference: Article 19 of the General Statutes is the state provision on planning and regulation of development.

Cross Reference: Subdivision regulations are codified as section 9-3001 et seq. Zoning is section 9-4001 et seq.

Section 2-7019 through 2-7020 reserved.

ARTICLE B
Parks and Recreation Commission

Section 2-7021 Town to assume responsibilities.

(A) The Town of Valdese hereby assumes the duties and obligations of the Valdese Parks and Recreation Commission in order to provide appropriate recreational programs and facilities for the citizens of the Town of Valdese.

(B) Persons presently employed by the Valdese Parks and Recreation Commission shall hereby become employees of the Town of Valdese. (Ord. of 8/3/87)

Section 2-7022 through section 2-7030 reserved.

ARTICLE C
Housing Authority

Section 2-7031 Authority created.

The Valdese Housing Authority, created on October 4, 1965, is recognized as the public body organized for the purpose of providing safe and sanitary dwelling accommodations for the low-income person in the town.

State Law Reference: State Housing Authorities Law, G.S. 157- 1, et seq. Minimum housing standards, G.S. 160A-441 to 160A- 450.

Cross Reference: Minimum housing standards, Section 9-1021 to 9-1041.

Section 2-7032 Members, number, initial appointments.

The housing authority shall be composed of five (5) members who are residents of the town who shall serve terms of office of five (5) years each with the first members appointed to serve terms of one, two (2), three (3), four (4) and five (5) years and thereafter each member to serve terms of five (5) years and thereby create staggered terms and require the reappointment of one member to the authority each year.

ARTICLE D
Town Arbor-Beautification Committee

Section 2-7040 Committee created.

There is hereby created a committee to be known as the Town Arbor-Beautification Committee (hereafter referred to as the "committee"). (Ord. of 12/8/86)

Section 2-7041 Members, number, initial appointments.

The committee shall be composed of nine members who are residents of the town who shall serve terms of office of three (3) years with original appointments made in the following manner: Three (3) members for a term of one year; three (3) members for a term of two (2) years; and three (3) members for a term of three years. At the expiration of the terms of all members first appointed, all new or reappointed members shall be for a full term of three (3) years. Vacancies occurring otherwise shall be for the unexpired term and shall be made by the mayor with the approval of the town council. (Ord. of 12/8/86)

Section 2-7042 Qualifications and compensation of members.

(a) The members of the committee shall be persons of recognized experience and qualifications and shall hold no other official position.

(b) All members of the committee shall serve at such without compensation. (Ord. of 12/8/86)

Section 2-7043 Removal of members.

Members may, after public hearing, be removed from the committee by the mayor for inefficiency, neglect of duty or malfeasance in office. (Ord. of 12/8/86)

Section 2-7044 Organization.

(a) The committee shall elect a chairperson, vice-chairperson, secretary, and such other officials as may be necessary, from among its members, to serve for a period of one year, with eligibility for reelection.

(b) The committee shall hold a meeting for the election of officers at the first meeting held each year. (Ord. of 12/8/86)

Section 2-7045 Rules; records; meetings; quorum.

The committee shall adopt rules for transaction of its business. It shall keep a record of its members attendance and of its resolutions, discussions, findings and recommendations, which records shall be of public record. The board shall hold meetings at least quarterly, and all of its meetings shall be open to the public. A majority of the committee's members shall be a quorum for the purpose of taking any official action. (Ord. of 12/8/86)

Section 2-7046 Powers and duties generally.

(a) It shall be the function and duty of the committee to make surveys and studies of the landscaping, vegetation, and trees located within the town's parks, streets, sidewalks, and

rights-of-way and to perform those other duties and responsibilities set out in the town's tree ordinance.

(b) In general, the committee shall have the power and duty to:

(1) Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the landscaping, and vegetation located in the town's parks, streets, sidewalks, and rights-of-way.

(2) Prepare and recommend to the town council action promoting the town's beautification and, in particular, the construction, planting, maintenance, or removal of landscaping and vegetation in the town's parks, streets, sidewalks, and rights-of-way.

(3) Prepare and recommend to the town council ordinances promoting the beautification of the town.

(4) Exercise those duties, responsibilities, and powers set out in the tree ordinance.

(5) To keep the council and the general public informed and advised as to these matters.
(Ord. of 12/8/86)

Cross Reference: Tree regulations, see section 8-8001 through section 8-8019.

Section 2-7047 Appropriation, budgeting of funds.

Funds appropriated by the council and budgeted to the committee shall be disbursed by the fiscal disbursing officer of the council upon vouchers issued by the committee and within the budget appropriations made. Funds received by the committee from sources other than the budget appropriations shall be deposited by the council to the credit and for the use of the committee and disbursed as budget funds are disbursed, except that funds received by gift, bequest, or otherwise shall be disbursed in accordance with the terms of such gift or bequest. (Ord. of 12/8/86)

CHAPTER 8 Elections

Section 2-8001 Burke County Board of Elections to conduct town elections.

Section 2-8002 Existing election procedures to be continued.

Section 2-8003 Same; procedures re-adopted

Section 2-8004 Absentee ballots authorized.

Section 2-8005 Filing fees.

Section 2-8001 Burke County Board of Elections to conduct town elections.

The Town of Valdese shall have the Burke County Board of Elections conduct all of its elections in accordance with Article 23, Chapter 163 of the North Carolina General Statutes. (Res. of 1/3/72, Sec. 1)

Section 2-8002 Existing election procedures to be continued.

The election procedure heretofore existing for the town, including the elections on a non-partisan basis where those receiving a plurality of the votes are elected without a run-off are to be continued.

Section 2-8003 Same; procedures re-adopted.

The election procedures followed by the town as of 1/3/72 are re-adopted and confirmed as the election procedures for the town except any changes required therein by the General Statutes of the state wherein the town has no discretion or choice. (Res. of 1/3/72, Sec. 3)

Charter Reference: Method of election, Charter, Sec. 3.1.

State Law Reference: Municipal election procedure is governed by Article 23, Chapter 163 of the General Statutes. G.S. 163-285 is the provision on optional administration of municipal elections by county board of elections.

Section 2-8004 Absentee ballots authorized.

Absentee ballots shall be allowed in the regular town elections, in accordance with the provisions of Article 20 and 21 of Chapter 163 of the General Statutes, and as authorized by Chapters 370 and 836 of the Session Laws of 1975. (Res. of 8/4/75, Sec. 1)

State Law Reference: Absentee ballots. G.S. 163-226 et seq. Military absentee registration. G.S. 163-245 et seq.

Section 2-8005 Filing fees.

The filing fee for elections for the office of mayor shall be \$12.00. The filing fee for elections to the office of commissioner shall be \$10.00. (Ord. of 9/1/75, Sec. 1)

PART 3
Public Safety

Chapter 1. Law Enforcement

Chapter 2. Fire Prevention and Protection

Chapter 3. Emergency and Rescue

CHAPTER 1

Law Enforcement

ARTICLE A

Police Department

Section 3-1001 Organization; composition;. executive head.

Section 3-1002 Same; general supervision; suspension of members.

Section 3-1003 Same; chief to assign duties, etc.

Section 3-1004 Chief of police, appointment.

Section 3-1005 Duties of chief of police.

Section 3-1006 May summon aid.

Section 3-1007 Interfering with, etc., police officer.

Section 3-1008 Uniforms, etc.; generally.

Section 3-1009 Same; return upon leaving department.

Section 3-1010 Duties of police officers generally.

Section 3-1011 Special policemen.

Section 3-1012 Resisting police prohibited.

Section 3-1013 through section 3-1020 reserved.

ARTICLE B

Auxiliary Police

Section 3-1021 Auxiliary police division established.

Section 3-1022 Chief of police to control; appointments and removals.

Section 3-1023 Duties.

Section 3-1024 Identification.

Section 3-1025 Carrying and custody of firearms.

Section 3-1026 Law enforcement powers.

Section 3-1027 Power of arrest.

ARTICLE A
Police Department

Section 3-1001 Organization; composition; executive head.

The manager shall be the executive head of the police department and, together with the chief of police and such other employees as the council may deem necessary, shall constitute the police department of the town.

Section 3-1002 Same; general supervision; suspension of members.

The manager shall have general control of the police department and may at any time for cause suspend from duty any member of the police force. (Code 1970, Sec. 15-2)

Section 3-1003 Same; chief to assign duties, etc.

The chief of police, subject to the manager, shall have charge of the police force and as such shall assign such duties to the policemen as he thinks best for the good order of the town and shall be responsible to the manager in seeing that the policemen faithfully perform their duties. (Code 1970, Sec. 15-3)

Section 3-1004 Chief of police, appointment.

The city manager shall appoint a chief of police.

Section 3-1005 Duties of chief of police.

(a) The chief shall have control over the police department under the supervision and direction of the manager. The chief shall keep the manager informed of the department's activities and make such reports that the board or the manager may from time to time require, and he shall perform such other duties as may be required of him by the manager.

(b) It shall be the duty of the chief of police to:

(1) Preserve the peace by suppression of all disturbances and apprehension of all offenders.

(2) Assign such duties as he deems best to the police officers of the town. (Code 1970, Sec. 2-46)

Section 3-1006 May summon aid.

The chief of police or any policeman of the town shall have authority, if resisted in the execution of their lawful duties, to summon a sufficient number of men to aid them in enforcing the law; and it shall be unlawful for any person so summoned to refuse to assist the chief of police or other officer. (Code 1970, Sec. 15-4)

Section 3-1007 Interfering with, etc., police officer.

It shall be unlawful to interfere with, hamper, molest, resist or hinder a police officer in the lawful discharge of his duty. (Code 1970, Sec. 15-5)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 3-1008 Uniforms, etc.; generally.**

The chief of police and other police officers shall, when on duty wear such uniforms as shall be prescribed by the board, and shall keep the same in a neat condition, and it shall be the duty of the chief of police to see that the force presents a neat and respectable appearance; provided, that any member of the police force designated or employed for emergency, limited or special duty, or anyone working generally as detective or doing detective work, need not be clad in a uniform unless specially directed by the chief of police to wear a uniform. (Code 1970, Sec. 15-8)

Section 3-1009 Same; return upon leaving department.

If and when any member of the police department of the town, for any reason, is leaving the police department, he shall return to the town such uniforms, badges, blackjacks, handcuffs and all other equipment that has been furnished to him by the town. (Code 1970, Sec. 15-7)

Section 3-1010 Duties of police officers generally.

It shall be the duty of the police officers of the town to:

- (1) Especially preserve public peace, prevent crimes, detect and arrest offenders, suppress riots and unlawful gatherings which obstruct the free passage of public streets, sidewalks, parks and public places.
- (2) Protect the rights of persons and property.
- (3) Guard the public health.
- (4) Preserve order at elections and all public meetings and assemblages.
- (5) Regulate the movements of vehicles and teams in the streets, bridges, parks, public squares and highways.
- (6) Arrest all street mendicants and beggars.
- (7) Provide proper police attendance at fires.
- (8) Carefully observe and inspect all places of public amusement; all places of business having license to carry on such business and to suppress and restrain all unlawful and disorderly conduct or practices therein.
- (9) Enforce penalties for the violation of state and federal laws, the provisions of this Code and other ordinances in the town.
- (10) Arrest all persons guilty of violating any law or any provision of this Code or other ordinance.
- (11) Prevent as far as possible any injury to property and buildings, streets and sidewalks.
- (12) Report to the chief of police any repairs needed to any public property.
- (13) Serve all processes issued to them.
- (14) Summon as many persons as may be necessary to assist them in the duties herein outlined.
- (15) Perform any other duties that may be assigned to them either by the mayor, ~~the~~ the council, ~~the~~ the manager or the chief of police.

State Law Reference: For general state law provision on appointment and duties of policemen, see G. S. 160A-281 and 160A-285.

Section 3-1011 Special policemen.

The town manager shall have the power, when he deems it necessary in the case of an emergency, to employ as many special policemen as are necessary to preserve the peace. (As amended 11I 3I 80)

Section 3-1012 Resisting police prohibited.

No person shall resist the police while in the discharge of their duty, by force, words or threats, or any attempt to excite others to resistance, or in any other manner obstruct them in the performance of their duty.

Section 3-1013 through section 3-1020 reserved.

ARTICLE B
Auxiliary Police

Section 3-1021 Auxiliary police division established.

There is hereby established within the town police department, as a division thereof, an auxiliary police division. The auxiliary ~~police~~police division shall be a volunteer organization, composed of as many members as may from time to time be determined by the town council.

Section 3-1022 Chief of police to control; appointments and removals.

The auxiliary police division shall be under the direct control of the chief of police, acting under the general supervision of the town manager. All appointments and removals of members of the auxiliary police division shall be made in the same manner and under the same policies and procedures as may from time to time be established for appointment and removal of regular police officers. The auxiliary police division shall have no commanding officer, nor any officers, and all members shall bear the rank of patrolman. Each member of the auxiliary police division shall take the oath of office of a regular policeman. The chief of police shall provide for adequate training of members of the auxiliary police division, and of candidates for membership.

Section 3-1023 Duties.

The duties of the auxiliary police division, subject at all times to the direction, supervision and control of the chief of police, shall be to assist the regular members of the police department in the enforcement of law and the maintenance of peace and order when called to active duty by the chief of police. The chief shall by order establish rules and regulations to govern the auxiliary police division, to fix the specific duties of its members, and to provide for the maintenance of discipline. Members of the auxiliary police division shall obey the instructions of regular police officers in carrying out their duties. The chief may prescribe other duties than those mentioned herein to be performed by the auxiliary police division, with approval of the town manager.

Section 3-1024 Identification.

An identification card and such other insignia or evidence of identity as the chief may prescribe shall be issued to each member of the auxiliary police division who must carry the card and other identification at all times while on duty, and who must surrender them upon the termination of his membership.

Section 3-1025 Carrying and custody of firearms.

No member of the auxiliary police division shall, while on duty, carry or use any firearm except upon the express order of the chief of police, and all official firearms shall be kept in custody of the police department except when issued to a member of the auxiliary division for use on active duty while accompanied by and under the supervision of one or more regular police officers.

Section 3-1026 Law enforcement powers.

No member or members of the auxiliary police division shall enforce, nor attempt to enforce, any law except when called to active duty, and except when immediately accompanied by one or more regular police officers.

Section 3-1027 Power of arrest.

Members of the auxiliary police division shall, while undergoing official training and while performing duties on behalf of the town, pursuant to orders or instructions of the chief of police, be entitled to all powers of arrest, privileges and immunities afforded by law to regularly employed policemen.

CHAPTER 2
Fire Prevention and Protection

ARTICLE A

Fire Department

- Section 3-2001 Organization.
- Section 3-2002 Chief of fire department; appointment.
- Section 3-2003 Duties of chief.
- Section 3-2004 Same; duties as fire inspector.
- Section 3-2005 General authority at fires; persons and vehicles regulated.
- Section 3-2006 Interfering with firemen or fire apparatus.
- Section 3-2007 Only firemen may ride on trucks without permission.
- Section 3-2008 Interfering with fire alarm apparatus.
- Section 3-2009 Right of way of fire apparatus and firemen responding to fire alarm.
- Section 3-2010 Duty of drivers of vehicles upon approach of fire apparatus.
- Section 3-2011 Driving on streets where fire department is fighting fires.
- Section 3-2012 Following or passing fire apparatus; parking near fire.
- Section 3-2013 Driving over fire hose.
- Section 3-2014 False alarms.
- Section 3-2015 Fire protection for areas outside of town limits.
- Section 3-2016 through section 3-2020 reserved.

ARTICLE B

Fire Prevention and Hazards

- Section 3-2021 Fire prevention and protection.
- Section 3-2022 Blasting.
- Section 3-2023 Pyrotechnics.
- Section 3-2024 through section 3-2030 reserved.

ARTICLE C

Fire District

- Section 3-2031 Description.
- Section 3-2032 through section 3-2040 reserved.

ARTICLE D

Police and Fire Alarm Systems

- Section 3-2041 Definitions.
- Section 3-2042 Alarm system owner - permits required; application.
- Section 3-2043 Alarm system owner - response to police alarms.
- Section 3-2044 Alarm system owner - response to fire alarms.
- Section 3-2045 False alarms.
- Section 3-2046 Assessment of civil penalty.
- Section 3-2047 Appeal.
- Section 3-2048 Notice and hearing.

ARTICLE A
Fire Department

Section 3-2001 Organization.

The fire department shall consist of the chief of the fire department and a sufficient number of firemen (voluntary, part or full-time) to maintain and operate the department. The department may from time to time adopt its own rules and regulations governing the department subject to the approval of the manager. However, any such rules and regulations shall include provisions for at least one (1) training period each month and that any member who is absent from two (2) consecutive meetings without a bona fide reason be dropped from the department.

Section 3-2002 Chief of fire department; appointment.

The town manager shall appoint a chief of the fire department.

Section 3-2003 Duties of chief.

It shall be the duty of the chief to:

- (a) Supervise and direct the extinguishing of fires.
- (b) Preserve and safe keep all equipment of the fire department.
- (c) Compel when necessary all officers of the town or other persons to aid in the extinguishing of fires.
- (d) Enforce all provisions of this Code and other rules and ordinances relative to fire prevention.
- (e) Perform the duties assigned to the fire inspector.
- (f) Inspect all equipment of the fire department and report all needed repairs to the manager.
- (g) Report all violations of any of the provisions of chapter 8 or any other fire prevention ordinances.
- (h) Annually report to the town manager the names, residences and occupations of all firemen, the number and locality of fires which have occurred during the year, the causes thereof if they can be ascertained, name of the owner and value of the property destroyed, insurance coverage, and such other matters pertaining to the fire department, its organization and operation as he deems best.
- (i) Do such other and further things necessary for the proper and efficient operation of his department and for the prevention of fire.

State Law Reference: Duties of fire chief enumerated, G.S. 160A-292.

Section 3-2004 Same; duties as fire inspector.

- (a) The chief is to assume the functions of fire inspector. As such, he (or his designated agent) shall have authority to enter any and all premises, at a reasonable time, for purposes of inspection.
- (b) Routine inspections. He shall make annual inspections of all structures located within the fire district.

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(c) Inspections upon complaint. He shall, upon receipt of a complaint forthwith investigate.

(d) He shall investigate the causes of fires and shall keep records of his findings as to origin, location, owner, extent of damage and injury, and amount of insurance carried. The findings must be reported to the North Carolina Insurance Commissioner at regular intervals.

(e) ~~He shall cause the removal of fire hazards by serving proper orders to the owner or agent of premises in question, such orders to state a reasonable time limit. Failure to comply with such order shall be considered a misdemeanor. (Code 1970, Sec. 8-5)~~ He shall cause the removal of fire hazards by serving proper orders to the owner or agent of premises in question, such orders to state a reasonable time limit. Any person who fails to comply with such order shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

Section 3-2005 General authority at fires; persons and vehicles regulated.

(a) The chief or his designated agent shall be the officer in command at the scene of fire and his commands shall be promptly obeyed.

(b) The officer in command shall have authority to summon aid and no citizen so summoned may refuse to help in extinguishing the fire or in protecting exposed property.

(c) During the continuance of a fire, the manager, the fire chief, his assistant or the mayor shall have authority to call upon any citizen to render assistance in pulling down or demolishing any building or in removing goods or furniture from a building on fire or in danger of fire, but not without the consent of the officer of the fire department or the police department who may be in charge.

(d) It shall be unlawful to congregate on the streets or alleys near a fire in a manner which would interfere with the activities of the fire department.

(e) In the event of an alarm of fire the apparatus of the fire department responding to it shall have the right-of-way in and upon all streets, lanes, alleys and other public ways.

(f) The drivers of vehicles, upon the approach of fire apparatus shall immediately bring their vehicle to a stop on the right hand side of the street in the direction in which they are facing and shall not move their vehicle until such apparatus has passed. (Code 1970, Sec. 8-6, 8-7)

Section 3-2006 Interfering with firemen or fire apparatus.

No person shall interfere with a fireman in the discharge of his duty, or hinder him in the performance of that duty; nor shall any person other than members of the fire department loiter about any fire station, or change, handle, or meddle in any manner with any fire engine or any other fire apparatus.

Section 3-2007 Only firemen may ride on trucks without permission.

No person other than a bona fide member of the fire department shall mount any fire engine or apparatus before it leaves the station or while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of the equipment.

Section 3-2008 Interfering with fire alarm apparatus.

No person shall interfere carelessly or willfully with the fire alarm system or injure the poles, wires, boxes, or other apparatus connected therewith.

Section 3-2009 Right of way of fire apparatus and firemen responding to fire alarm.

In the event of an alarm of fire the apparatus of the fire department responding to it, and firemen driving own cars responding to it, shall have the right of way in and upon all streets, lanes, alleys, squares and railroad crossings. (Code 1970, Sec. 8-9)

Section 3-2010 Duty of drivers of vehicles upon approach of fire apparatus.

The drivers of vehicles, upon the approach of fire apparatus, shall immediately bring their vehicles to a stop on the right hand side of the street in the direction in which they are facing and shall not move their vehicle until such apparatus has passed. (Code 1970, Sec. 8-10)

Section 3-2011 Driving on streets where fire department is fighting fires.

It shall be unlawful for any person, after being forbidden by an officer of the city, to ride or to drive a vehicle through any street, alley or square on which the fire department is assembled for active service during the progress of a fire. (Code 1970, Sec. 8-11)

Section 3-2012 Following or passing fire apparatus; parking near fire.

It shall be unlawful to follow any fire apparatus which is responding to a call, by automobile or any other vehicle, unless such is used for transporting firemen to the scene of fire, at a distance closer than one city block, or to pass such apparatus or to park within the same block in which the fire is in progress. (Code 1970, Sec. 8-12)

Section 3-2013 Driving over fire hose.

No vehicle shall be driven over any hose of the fire department when laid down on any street or driveway to be used at any fire, without the consent of the fire department officer in command. (Code 1970, Sec. 8-13)

Section 3-2014 False alarms.

It shall be unlawful for any person to give or cause to be given any false alarm of fire. (Code 1970, Sec. 8-14)

Section 3-2015 Fire protection for areas outside of town limits.

The town will provide to areas desiring fire protection outside of the town limits such protection on the following basis:

- (1) All fire contracts are to be issued on an annual basis.

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(2) All businesses or industries must qualify or be approved for the fire protection by the State Rating Bureau.

(3) Each business served will pay a flat rate for each year served, and a fee for each call made to that business, both fees as established by the council and kept on file in the office of the clerk. (Ord. of 4/1/68, Sec. 1)

State Law Reference: Fire protection outside town limits; maintenance of equipment; jurisdiction. G. S. 160A-293.

Section 3-2016 through section 3-2020 reserved.

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ARTICLE B
Fire Prevention and Hazards

Section 3-2021 Fire prevention and protection.

(a) This section shall be known as the Fire Prevention and Protection Code of Valdese, North Carolina, and may be cited as such and referred to herein as the "Code."

(1) It is the intent of the Code to prescribe regulations consistent with internationally recognized standards and good practices for the safeguarding of life and property within the jurisdiction of the town from the hazards of fire and explosion arising from the storage, handling, and use of hazardous substances, materials, and devices and arising from hazardous conditions in the use of occupancy of buildings or premises. (Ord. of / /)

(2) The Code shall not be construed to hold the town responsible for any damage to person(s) or property by reason of the inspection or the re-inspection authorized herein, or the failure to inspect or re-inspect, or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.

(b) Fire chief to enforce code. The Code shall be enforced by the town fire chief or his designated representatives or as otherwise provided herein.

(c) Adoption of technical codes and standards by reference; copies on file.

(1) The code known as the North Carolina International Building Code and all subsequent volumes, amendments, appendices, and revisions, is hereby adopted by reference and is set forth herein as the Fire Prevention and Protection Ordinance for the Town. Any amendments to the Fire Prevention Code which are adopted and published by the North Carolina Building Code Council, shall be effective in the jurisdiction of the Town at the time such amendments are declared in effect by the North Carolina Building Code Council.

(2) A copy of the Fire Prevention and Protection Ordinance and all Technical codes and standards adopted by reference shall be available for public inspection at the Office of the Fire Marshal and the Office of the Fire Chief of the Valdese Fire Department. (Ord. of 6/3/96; Ord. of / / ; Amendment of 11/7/11)

(d) Inspection of buildings and premises. Subject to the limitations and conditions stated in the North Carolina Building Code, it shall be the duty of the fire chief or his designated representative to inspect or cause to be inspected as often as he deems necessary or appropriate, all buildings, structures, and premises within his jurisdiction for the purposes of ascertaining and causing to be corrected any condition which may cause a fire or explosion and for the purpose of identifying violations of the provisions of the Code or any other ordinances pertaining to fire or explosion hazards. (Ord. of //)

(e) Permits.

(1) This Code shall require permits from the fire chief or his designated representative as set forth in Chapter 1, "Administration," the North Carolina Fire Prevention Code.

(2) It shall be the duty of the fire chief or his designated representative to evaluate applications and issue permits, if the application is approved, for conditions as prescribed in Chapter 1, "Administration," of the North Carolina Fire Prevention Code.

(3) No person shall maintain, store, or handle materials or conduct processes which produce conditions hazardous to life or property, or install equipment used in connection with such activities without a permit as required by the fire chief or his designated

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representative, and prescribed in Chapter 1 of the North Carolina Fire Prevention Code and this Code. Before such a permit may be issued, the fire chief or his designated representative shall inspect receptacles, vehicles, buildings, structures, storage areas, devices, processes, and all other conditions as related to the permit, to assure compliance with the Code. (Ord. of / /)

(f) Service of orders or notices.

(1) The service of orders or notices for the correction of violations of the Code shall be made upon the owner, occupant, or other person responsible for the conditions, either by personally delivering a copy of same to such person, or by delivering same to and leaving it with any person in charge of the premises, or by sending a copy of the order or notice by certified or registered mail to the owner's last known address.

(2) When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct the violations of the Code shall apply to the occupant thereof; provided that where the orders or notices require the making of additions to, or changes in the premises themselves which may become a part of the real property of the owner, then in such cases, the orders or notices shall also be issued to the owner of the premises or real property. Failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate such order or notice.

(g) Fee schedule.

(1) Fees for inspections required by the Code shall be determined by resolution of the town council. An inspection fee schedule shall be filed with the clerk and in the office of the fire chief for public inspection. (See division (m) of this section.)

(2) Inspection fees shall be paid within three (3) days as specified in the billing or notice of the amount of the fee due.

(h) Violations and penalties.

(1) ~~Any person(s) who shall violate any of the provisions of the Code hereby adopted, or who shall fail to comply with any judicial warrant, lawful order, or regulation made thereunder, or who builds in violation of any specifications or plans submitted and approved thereunder, or any permit issued thereunder, shall be guilty of a misdemeanor. Each day that such violation continues shall constitute a separate offense. In the name of the town, the fire chief, through the town attorney, may file suit to enjoin the construction or maintenance of any facility, building, or structure which does not conform to the provisions of the Code. Any person(s) who shall violate any of the provisions of the Code hereby adopted, or failure to comply with any judicial warrant, lawful order, or regulation made thereunder, or who builds in violation of any specifications or plans submitted and approved thereunder, or any permit issued thereunder, shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this Code, whichever is less. Each day that such violation continues shall constitute a separate offense. In the name of the town, the fire chief, through the town attorney, may file suit to enjoin the construction or maintenance of any facility, building, or structure which does not conform to the provisions of the Code.~~

(2) This Code may be enforced by any of the remedies set forth in G.S. 160A-175, in addition to others specifically set out herein or in the town code of ordinances.

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(3) Any person who violates any of the provisions of this Code shall be subject to a civil penalty for each violation in the amount shown in the schedule set forth in division (l) of this section. The civil penalty shall be on file with the clerk and in the office of the fire chief for public inspection. Each day of violation shall constitute a separate and distinct offense.

(4) Civil penalties must be paid within seventy-two (72) hours after a citation has been issued by the fire chief or his designated representative for a violation. The fire chief or his designated representative is authorized to issue written citations in the name of the town for all violations of the Code.

(5) Civil penalties for a second or subsequent violation shall be double the amounts specified in division (l). (Ord. of / /)

(i) Removal of obstructions; prohibited parking. Any vehicle found to be obstructing any fire hydrant, fire protection equipment, designated and marked fire lane, or fire station may be removed or towed away by or under the direction of the fire chief to a storage area or garage. The owner of such vehicle shall be deemed to have appointed the fire chief as his agent for the purpose of arranging for the transportation and safe storage of the vehicle. The owner of such vehicle, before obtaining possession thereof, shall pay all reasonable costs incidental to the removal and storage of the vehicle due for the violation of prohibited parking.

(j) Emergency entry. The town fire chief or his designated representative shall have the right to enter any building or premises without permission or warrant in the event of any emergency situation constituting a threat to human life, property, or the public safety for the purpose of eliminating, controlling, or abating the dangerous condition or situation.

(k) Inspection schedule. In order to preserve and to protect public health and safety, and to satisfy the requirements of G.S. 160A-411, the town adopts the following inspection schedule:

Annually:	Hazardous, institutional, high rise, assembly except those noted below, and residential except one- and two-family dwellings and only interior common areas of dwelling units of multi-family occupancies.
Once every two years:	Industrial and educational (except public schools).
Once every three years:	Assembly occupancies with an occupant load less than 100, business, mercantile, storage, churches, synagogues and miscellaneous group U occupancies.

Nothing in this section is intended to prevent the jurisdiction from conducting more frequent inspections than the schedule listed above or the schedule filed with the Engineering Division of the North Carolina Department of Insurance.

(Ord. of / / ; Ord. of 11/7/11)

(l) The following civil penalties are hereby approved, adopted, and imposed by the town council for each violation of the referenced chapters of the North Carolina Fire Prevention Code:

Chapter Number	Title	Fee Amount
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Chapter Number	Title	Fee Amount
1.	Administration	50.00
2	Definitions	0.00
3	General precautions against fire	50.00
4	Emergency planning and preparedness	50.00
5	Fire service features	50.00
6	Building services and systems	50.00
7	Fire resistance-rated construction	50.00
8	Interior finish, decorative materials, and furnishings	50.00
9	Fire protection systems	150.00
10	Means of egress	150.00
11	Aviation facilities	50.00
12	Dry cleaning	50.00
13	Combustible dust producing operations	50.00
14	Fire safety during construction and demolition	50.00
15	Flammable finishes	50.00
16	Fruit and crop ripening	50.00
17	Fumigation and thermal insecticidal fogging	50.00
18	Semiconductor fabrication facilities	50.00
19	Lumber yards and woodworking facilities	50.00
20	Manufacture of organic coatings	50.00
21	Industrial ovens	50.00
22	Service stations and repair garages	50.00
23	High piled combustible storage	50.00
24	Tents and other membrane structures	50.00
25	Tire rebuilding and tire storage	50.00
26	Welding and other hot work	50.00
27	Hazardous materials —general provisions	50.00
28	Aerosols	50.00
29	Combustible fibers	50.00
30	Compressed gases	50.00
31	Corrosive materials	50.00
32	Cryogenic fluids	50.00
33	Explosives and fireworks	50.00
34	Flammable and combustible liquids	50.00
35	Flammable gases	50.00

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36	Flammable solids	50.00
37	Highly toxic and toxic materials	50.00
38	Liquefied petroleum gases	50.00
39	Organic peroxides	50.00
40	Oxidizers	50.00
41	Pyrophoric materials	50.00
42	Pyroxylin (cellulose nitrate) plastics	50.00
43	Unstable (reactive) materials	50.00
44	Water-reactive solids and liquids	50.00
45	Referenced standards	0.00

(Ord. of / / ; Ord. of 6/3/96; Ord. of //; Ord. of 11/7/11)

(m) The following fees are approved and adopted for inspection under this section:

Inspection Type	Scheduled Fee
Periodic fire inspection:	None
Fire inspection pursuant to permit application:	None
First re-inspection for noncompliance, if code requirements are met:	None
First re-inspection for noncompliance, if code requirements are not met:	\$50.00
Second and subsequent re-inspections for noncompliance:	\$100.00

(Res. of 9/8/92; Ord. of //; Ord. of 11/7/11)

Section 3-2022 Blasting.

No blasting of any kind shall be allowed without a permit from the manager or the governing body. (Code 1970, Sec. 3-15)

Section 3-2023 Pyrotechnics.

No pyrotechnical display of any kind shall be allowed except upon the specific approval of the fire chief. In granting approval to conduct fireworks displays, the fire chief shall take under consideration the following:

- (1) Degree of hazard posed to persons and property.
- (2) Protective measures to be taken, including emergency alternatives.
- (3) Environmental factors, including weather, wind, etc.
- (4) Degree of anticipated disturbance through noise and light to nearby properties.

Section 3-2024 through section 3-2030 reserved.

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ARTICLE C
Fire District

Section 3-2031 Description.

The primary fire district for the town shall be from the corner of Eldred Street and Main Street to the corner of Morganton Street and Main Street to extend 300 feet north and 200 feet south of Main Street east and west, with the exception of the western half of the block located south of Main Street, east of Colombo Street Southwest, west of Waldo Street and north of St. Germain Avenue Northwest, and with the exception of that parcel described in that deed recorded in Book 665, page 342, Burke County Registry, said parcel having been assigned Tax Parcel I.D. No. 74-56-3-2 by the Burke County Tax Office, and with the exception of that parcel described in that deed recorded in Book 640, page 833, Burke County Registry, said parcel having been assigned Tax Parcel I.D. No. 74-40-6-1, by the Burke County Tax Office, and with the exception of that parcel described in that deed recorded in Book 1610, page 69, Burke County Registry, said parcel having been assigned Tax Parcel I.D. No. 74-36-3-1, by the Burke County Tax Office. (Ord. of 1/10/94; Ord. of 2/5/96; Ord. of 12/8/03; Ord. of 11/5/07)

State Law Reference: Fire Limits, G.S. 160A-435.

Section 3-2032 through section 3-2040 reserved.

ARTICLE D
Police and Fire Alarm Systems

Section 3-2041 Definitions.

The following words and phrases shall have the meanings set forth herein unless the context clearly indicates otherwise:

(1) Alarm system. Any electronic or mechanical device which transmits an electronic alarm signal or recorded message to the town's communications center or other receiving station indicating an actual or attempted unauthorized entry into a building or indicating the commission or attempted commission of a crime in or about a building, or indicating a fire or other incendiary occurrence. For purposes of this definition, "other receiving station" means any person or business that receives an electronic alarm signal or recorded message and transmits information regarding such signal or message to the town's communications center. This definition shall include any local audible alarm system and any automatic telephone dialing type of alarm.

(2) Alarm system business. Any business whose primary daily operation is to sell or lease alarm systems to a person, corporation, partnership, governmental or educational entity.

(3) Alarm system owner. Any person, corporation, partnership, governmental or educational entity owning or leasing an alarm system.

(4) False alarm. Activation of an alarm system that elicits a response by the police or firefighters when no situation requiring such a response does, in fact, exist. This includes accidental, avoidable, and unnecessary alarm activation due to user error, equipment malfunction, improper or unsuited equipment, but does not include alarm activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user of alarm system business.

(5) Fire alarm. Activation of an alarm system that is intended to elicit a response by firefighters.

(6) Fire chief. The fire chief of the town or any designee acting on behalf of the fire chief.

(7) Local audible alarm system. Any alarm owned by an alarm system owner that, by sound of a whistle, bell, buzzer, siren or other noise generator, alerts those outside the home or building, but in the near vicinity, of a break-in, robbery, or fire, but does not transmit a signal by telephone or other communications device.

(8) Police alarm. Activation of an alarm system that is intended to elicit a response by police.

(9) Police chief. The police chief of the town or any designee acting on behalf of the police chief.

(10) Town's communications center. The town's communications center which receives telephone requests or signal requests for police, fire, ambulance, rescue, or other emergency service within the town. (Ord. of 10/7/91)

Section 3-2042 Alarm system owner - permits required; application.

(a) In general.

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(1) Every alarm system owner shall obtain a permit from the fire department for each alarm system that such owner operates within the town. An alarm system business must obtain a permit under this section only if an alarm system is used to protect the premises in which the business is housed. Any owner of a local audible alarm system shall also obtain a permit as required under this section. Every alarm system owner shall pay a fee of ten dollars (\$10.00) per year per alarm system for a permit from the town, except those in (a)(2) below, who shall pay the fee prescribed in (a)(2).

(2) Any owner of an alarm system that has a direct connection with the town's communications center shall pay to the town a fee of twenty dollars (\$20.00) per year per alarm system. No alarm system owner may directly connect the alarm with the town's communications center unless such alarm system owner complies with all regulations applicable to the direct connection of an alarm system to the town's communications center. In the event the town contracts with a company for installation of a fire/burglar alarm receiving system, the alarm system owner shall also be required to pay to the company such fees and provide it with such information as the company requires.

(b) Alarm system owner - permit application.

(1) The alarm system owner applying for the permit required herein shall state on the permit application form: the name, address and telephone number of each person in control of the property; the street address of the property on which the alarm system has been or will be installed; the type of alarm system; and the name, address, and telephone number of at least two other persons (in the case of a corporate applicant, at least three persons) who can be reached at any time, day or night, and who are authorized by the alarm system owner to respond to and open the premises in which the alarm system is installed. The form of the alarm system owner permit application shall be prescribed by the town manager. Any alarm system owner may obtain a permit application from the fire department.

(2) At such time that any information required as provided in (b)(1) of this section is in any way changed, the alarm system owner shall complete another alarm system owner permit application. There shall be no fee for completing another permit application where the purpose is to correct or change information that was previously provided.

(c) An alarm system owner permit application shall be submitted to the fire chief who shall approve such application if it is determined that the application provides all of the information required in (b)(1) above and, in the case of direct connections to the town's communications center, the owner has complied with all regulations applicable to direct connection of alarm systems.

(1) The fire chief shall not approve an alarm system owner permit application where the alarm system owner's previous permit was revoked pursuant to section 3-2045 and the alarm system owner has not had the alarm system inspected and repaired by a company licensed by the State of North Carolina to install and inspect alarm systems.

(2) The fire chief may revoke a permit where it is found that the alarm system owner provided false information on the alarm system owner permit application form.

(3) Upon approval of the application by the fire chief, and upon receipt of a permit fee, as set forth in (a)(1) and (2) above, a permit shall be issued.

(4) Any person whose application for a permit is denied by the fire chief may appeal from such decision to the town manager pursuant to section 3-2048.

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(d) Each permit for a business shall be prominently displayed on the premises wherein the alarm system is installed and shall be available for inspection by the fire chief during normal business hours. Every business alarm system owner shall display an emergency call-back sticker on the door or window designated in the permit of the building wherein the alarm system is installed.

(e) Any alarm system owner who operates an alarm system without a permit as required by this article shall be assessed a civil penalty of:

- (1) Fifty dollars (\$50.00) for failure to secure said permit.
 - (2) Thirty-five dollars (\$35.00) for each false alarm answered by the police department.
 - (3) One hundred dollars (\$100.00) for each false alarm answered by the fire department.
- (Ord. of 10/7/91)

Section 3-2043 Alarm system owner - response to police alarms.

The alarm system owner or a representative thereof shall be available at all times for the purpose of responding to police alarms by personally appearing at the home or building designated in the permit following an alarm of any kind. If, following a police alarm, the alarm system owner or a representative thereof fails to appear at the home or building designated in the permit within thirty (30) minutes after being notified by the town's communications center, the alarm system owner shall be assessed a civil penalty of ten dollars (\$10.00) for every such event. (Ord. of 10/7/91)

Section 3-2044 Alarm system owner - response to fire alarms.

The alarm system owner or a representative thereof shall be available at all times for the purpose of responding to fire alarms by personally appearing at the home or building designated in the permit following an alarm of any kind. If, following a fire alarm, the alarm system owner or a representative thereof fails to appear at the home or building designated in the permit within thirty (30) minutes after being notified by the town's communications center, the alarm system owner shall be assessed a civil penalty of ten dollars (\$10.00) for every such event. (Ord. of 10/7/91)

Section 3-2045 False alarms.

(a) Police false alarms.

(1) If the town's communications center receives more than one (1) false police alarm in any thirty (30) day period from any single alarm system, the alarm system owner owning or leasing the alarm system shall be assessed a civil penalty of twenty-five dollars (\$25.00) for the second and each subsequent false alarm received within a thirty (30) day period.

(2) If the town's communications center receives in excess of four (4) false police alarms in any thirty (30) day period from any single alarm system, the fire chief shall disconnect any such alarm system and/or may revoke the permit; provided, however, when the fire chief has reason to believe that such false alarms are the result of a defective alarm system, in lieu of such disconnection or permit revocation, the fire chief may require the alarm system owner to cause the alarm system to be inspected by an individual or company licensed by the State of North Carolina to install and inspect alarm systems. The alarm system owner shall select an individual or company to perform the inspection. If the alarm system owner

fails to have such an inspection performed, or if the alarm system is not repaired, altered, replaced, or other corrective action taken, the fire chief shall cause the alarm system to be disconnected and/or may revoke the permit, as the case may be. Further, if the alarm system transmits an electronic alarm signal or recorded message to a receiving station other than the town's communications center, or is a local audible alarm, the police department, upon notice in writing to the alarm system owner, may cease responding to said alarms until the alarm system is repaired and inspected under the guidelines stated in this paragraph.

(3) Signals or messages transmitted by the alarm system during alarm system testing procedures shall not be considered false alarms if the alarm system owner first notifies and receives permission from the town's communications center before testing the alarm system.

(b) Fire false alarms.

(1) If the town's communications center receives in excess of one (1) false fire alarm in any thirty (30) day period from any single alarm system, the alarm system owner owning or leasing the alarm system shall be assessed a civil penalty of one hundred fifty dollars (\$150.00) for each said false alarm. Failure to pay this penalty within thirty (30) days from the date the notice of the violation is issued may result in the revocation of the permit.

(2) If the town's communications center receives in excess of four (4) false fire alarms in any thirty (30) day period, the fire chief shall have the authority to disconnect any such alarm system and/or may revoke the permit; provided, however, when the fire chief has reason to believe that such false alarms are the result of a defective alarm system, in lieu of such disconnection or permit revocation, the fire chief may require the alarm system owner to cause the alarm system to be inspected by an individual or company licensed by the State of North Carolina to install and inspect alarm systems. The alarm system owner shall select an individual or company to perform the inspection. If the alarm system owner fails to have such an inspection performed, or if the alarm system is not repaired, altered, replaced, or other corrective action taken, the fire chief shall cause the alarm system to be disconnected and/or may revoke the permit, as the case may be.

(3) Signals or messages transmitted by the alarm system during alarm system testing procedures shall not be considered false alarms if the alarm system owner first notifies and receives permission from the town's communications center before testing the alarm system. (Ord. of 10/7/91)

Section 3-2046 Assessment of civil penalty.

The fire chief shall assess civil penalties under the provisions of this article. An assessment notice shall be mailed to the alarm system owner at the address stated on the permit application. (Ord. of 10/7/91)

Section 3-2047 Appeal.

(a) Any alarm system owner who has been assessed a civil penalty under this article may request, orally or in writing, an informal hearing with the fire chief. The decision of the fire chief may be appealed to the town manager. In such a case, the notice of appeal shall be in writing and filed in the town manager's office within ten (10) days of the issuance of a final

decision by the fire chief. The town manager shall schedule a hearing on the matter within thirty (30) days from the date the notice of appeal is filed.

(b) Failure to perfect an appeal within the time and in the manner provided for in this section shall constitute a waiver of the right to appeal. (Ord. of 10/7/91)

Section 3-2048 Notice and hearing.

Before the fire chief revokes a permit pursuant to this article, or if an appeal is taken pursuant to section 3-2042(c)(4) from a decision of the fire chief denying an application for a permit, the fire chief shall cause a written notice to be sent by certified mail to the permittee or applicant affected, at the address stated on the permit or application. This notice shall advise the affected party of a right to appear before the town manager, with or without legal counsel, at a stated time and place, for the purpose of presenting any evidence relevant to such revocation or denial, and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence. Any permittee or applicant under this article may appeal to the town council from any final decision of the town manager. (Ord. of 10/7/91)

CHAPTER 3
Emergency and Rescue

ARTICLE A

Emergencies

Section 3-3001 State of emergency.

Section 3-3002 Proclamation of state of emergency.

Section 3-3003 Application of restrictions.

Section 3-3004 Termination of restrictions and state of emergency.

Section 3-3005 Unlawful activities during state of emergency.

Section 3-3006 Proclamation may be extended, repealed.

Section 3-3007 Violations.

Section 3-3008 through section 3-3010 reserved.

ARTICLE B

Civil Defense Agency

Section 3-3011 Agency established.

Section 3-3012 Organization, duties.

Section 3-3013 through section 3-3020 reserved.

ARTICLE C

Emergency Medical Service (Reserved)

ARTICLE A Emergencies

Section 3-3001 State of emergency.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives or property. (Code 1970, Sec. 12-28(a))

Section 3-3002 Proclamation of state of emergency.

In the event of an existing or threatened state of emergency endangering the lives, safety, health and welfare of the people within the town, or threatening damage to or destruction of property, the mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency, and, in order to more effectively protect the lives and property of people within the town, to place in effect any or all of the restrictions hereinafter authorized. (Code 1970, Sec. 12-28(b))

Section 3-3003 Application of restrictions.

The mayor is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions to any area specifically designated or described within the corporate limits of the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions law enforcement officers, firemen and other public employ-ees, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town. (Code 1970, Sec. 12-28(c))

Section 3-3004 Termination of restrictions and state of emergency.

The mayor shall proclaim the end of such state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the governing body. (Code 1970, Sec. 12-28(d))

Section 3-3005 Unlawful activities during state of emergency.

During the existence of a proclaimed state of emergency, the mayor may impose by proclamation any or all of the following restrictions:

- (1) Prohibit or regulate the possession off one's own premises of explosives, firearms, ammunition or dangerous weapons of any kind, and prohibit the purchase, sale, transfer or other disposition thereof;
- (2) Prohibit or regulate the buying or selling of beer, wine or intoxicating beverages of any kind, and their possession or consumption off one's own premises;

(3) Prohibit or regulate any demonstration, parade, march, vigil or participation therein from taking place on any of the public ways or upon any public property;

(4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances;

(5) Prohibit or regulate travel upon any public street, alley, or roadway or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well- being of themselves or their families or some member thereof;

(6) Prohibit or regulate the participation in or carrying on of any business activity, and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly.

Section 3-3006 Proclamation may be extended, repealed.

Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation. (Code 1970, Sec. 12-28(f))

Section 3-3007 Violations.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this article. (Code 197, Sec. 12-28(g))

Section 3-3008 through section 3-3010 reserved.

ARTICLE B
Civil Defense Agency

Section 3-3011 Agency established.

In accordance with G.S. Chapter 166A, as amended, the Valdese Civil Defense Agency is established. (Res. of 12/7/64, Sec. 1)

Section 3-3012 Organization, duties.

The agency shall be organized in accordance with state law and orders, resolutions, and ordinances of the board as passed consistent with state law. The agency shall report to the manager and shall perform such duties as directed by the manager.

State Law Reference: Local organization for civil defense is authorized by G.S. 166A-8.

Section 3-3013 through section 3-3020 reserved.

PART 4
Public Works

Chapter 1. Streets and Sidewalks

Chapter 2. Solid Waste

Chapter 3. Municipally Owned Cemeteries

CHAPTER 1

Streets and Sidewalks

ARTICLE A

Acceptance and Improvement of Public Streets

Section 4-1001 Policy established.

Section 4-1002 Requirements for the acceptance of new streets.

Section 4-1003 Petition for street improvements.

Section 4-1004 Street improvements defined.

Section 4-1005 Street improvement project procedure.

Section 4-1006 Installation of utilities.

Section 4-1007 Utility services, or public utilities, defined.

Section 4-1008 Utilities to be placed underground; exceptions.

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Section 4-1010 Responsibility of property owner.

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ARTICLE A
Acceptance and Improvement of Public Streets

Section 4-1001 Policy established.

It shall be the policy of the board to regulate the acceptance and improvement of public streets by exercising the powers and duties conferred by G.S. 160A-296 in the best interests of the citizens of the town.

Section 4-1002 Requirements for the acceptance of new streets.

Private streets offered for dedication to the town will not be accepted by the town council as public, municipal streets unless:

- (1) approved by the planning board;
- (2) consistent with all standards and specifications for town streets;
- (3) found to be in the best interests of the town; and
- (4) formally accepted by resolution of the council.

Section 4-1003 Petition for street improvements.

(a) Execution by owners. All petitions for street improvements must be signed in ink by the owners of the property signed for, or by their duly authorized agents.

(b) Execution when town owns property. Whenever the abutting landowners on any street petition to have the same improved and the town owns property along the street whereon such improvement is desired, the mayor is hereby authorized and empowered to sign the petition in the name of the town for the full frontage of the property owned by the town along such street.

(c) Right to withdraw signature. Any person shall have the right to withdraw his signature from a petition for the pavement or repavement of a street, but any such withdrawal must be in the handwriting of the withdrawing petitioner and shall state that it is his own act, uninfluenced by persuasion from any person manufacturing competing products.

(d) Effect of withdrawal of signature. Any person who has signed a petition for the pavement or repavement of a street or portion of a street and withdraws his signature therefrom thereafter will not be considered on any petition for pavement or repavement; that is, such withdrawing person can sign any other paving petition, but the town will not pass such other petition unless the required number of fee is signed in addition to that of the party who has withdrawn his signature.

(e) Misrepresentation to induce withdrawal of signers. No person shall appeal personally to signers of such petitions to withdraw their names and in making such appeals misrepresent the facts, either as to the cost of the respective pavements or any other fact connected therewith.

Section 4-1004 Street improvements defined.

For the purposes of this article, the term "street improvements" shall include the grading, regrading, paving, repaving, macadamizing and remacadimizing of streets, alleys, sidewalks,

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or other public places or ways, and the construction, reconstruction and altering of curbing, guttering, storm sewers, turnouts, watermains, and water, gas, or sewer connections therein.

Section 4-1005 Street improvement project procedure.

The procedure for street improvement projects shall be as specified in G.S. 160A-216 et seq.

Section 4-1006 Installation of utilities.

At least 30 days before a contractor is notified that a street is ready for him to proceed with his work, the superintendent of public works shall notify all public utilities that the street is being turned over to the contractor for the execution of his contract. If those so notified are not ready or cannot get ready within the 30 days, the superintendent of public works shall be so notified in writing, whereupon he may, at his discretion and upon the approval of the council, delay the sending of the notice to the contractor.

Section 4-1007 Utility services, or public utilities, defined.

For the purpose of this article, the term utility services or public utilities, shall include electricity, telephone, telegraph, community antennae, water and gas transmission and distribution systems. (Code 1970, Sec. 17-15)

Section 4-1008 Utilities to be placed underground; exceptions.

- (a) The extension of existing utility services into new areas shall be placed underground.
- (b) Utilities services in all public and private housing developments shall henceforth be installed underground. Housing developments shall be defined as any land development whereby a land subdivision map is placed on public record or land is subdivided into four (4) or more lots.
- (c) Utilities services in urban renewal areas shall be placed underground.
- (d) In support of projects of civic improvement including, but not restricted to, street widening, street paving, street realignment, provisions for open space, etc., utility services shall be relocated underground.
- (e) In situations where the movement of utility services underground is demonstratively impracticable, variances from the provisions of this section shall be granted by the council.
- (f) When utility services are placed underground, they shall be of sufficient depth to eliminate exposure and to adequately protect the same from shallow excavations. (Code 1970, Sec. 17-16)

Section 4-1009 Same; penalty for violation section 4-1008.

~~Any violation of section 4-1008 shall constitute a misdemeanor and shall be punishable by a fine of \$50 or 30 days imprisonment or both, in the discretion of the court. The imposition of one penalty for any violation of the section shall not excuse the violation or permit it to continue. Each day that a violation of the section continues after notice from the manager, or a duly authorized agent of the town, shall constitute a separate offense. (Code 1970, Sec. 17-17) A violation of section 4-1008 shall subject the offender to a civil penalty in the amount of fifty~~

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dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Cross Reference: Street and sidewalk use and regulation generally. Section 6-2001 through 6-2019. Poles and wires. Section 6-2013 through 6-2017.

Section 4-1010 Responsibility of property owners.

All abutting property owners shall receive the same notice as is provided to public utilities under section 4-1006(a) hereof and shall be required to make all necessary preparations for street improvements. Property owners may request a delay in the sending of notice to the contractor as provided in such subsection.

Section 4-1011 Construction according to specifications.

All street improvements shall be constructed in accordance with specifications furnished by the superintendent of public works, and all such work shall be done under his supervision.

Section 4-1012 Opening and improving streets without petition.

It shall be wholly discretionary with the council whether any street improvement work is necessary or desirable and shall be done or not. Except for the levy of assessments, street improvements made without a petition therefor shall follow the same procedure as street improvements made pursuant to petition.

Section 4-1013 Resurfacing improvements.

(a) In all cases where a street is being repaved, the superintendent of public works shall be authorized to close such street or part of such street from the time the work is started until such time as in his judgment the street is suitable for ordinary traffic thereon. If there is any dispute as to the time when such pavement is sufficiently set or hardened or otherwise has become fit for travel, the ~~decision~~decision of the superintendent shall be final. It shall be the special duty of the superintendent to see that the provisions of this section are enforced, both as to the erection of barriers or enclosures and as to travel on any such street by vehicles, during the time prohibited. It shall also be the duty of the superintendent to serve such notice as may be necessary to protect any person having a permanent line thereon, such as bus lines, taxicab lines and the like.

(b) No person shall interfere with such closing or undertaking by operating a car or otherwise traveling thereon before the enclosures have been removed therefrom and such street opened for travel.

Section 4-1014 Property owner's cost.

The cost for street improvements charged against each abutting property owner shall be determined by the board under the provisions of G.S. 160A-218.

Section 4-1015 Assessments under petitions.

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Assessments shall be due within 30 days from presentation and notification of the assessment; but the property owners shall have the privilege, of giving written notice of such intention, to pay one-fourth (1/4) thereof in cash and to give notes for the balance for payment of such assessments in installments. Such notes shall provide that if all installments are paid before maturity only interest accruing to date of payment shall be collected.

Section 4-1016 New subdivisions.

Street improvements in new subdivisions shall be made as provided by the superintendent of public works.

Section 4-1017 Developer's cost.

Developers shall be assessed as abutting property owners for the cost of street improvements done by the town.

Section 4-1018 Street lights.

Street lights shall be installed and maintained by the town in other than business sections only at street intersections or terminations. (As amended 11/3/80)

Section 4-1019 through section 4-1020 reserved.

ARTICLE B Excavation and Repair

Section 4-1021 Permit to dig in streets.

No person shall make any excavation or opening or dig any ditch, trench, tunnel or hole in, along, across or under any street, sidewalk or other public place for the purpose of laying or placing therein any pipe, wires or poles or for any other purposes unless a written permit therefor has been issued by the manager or some other officer of the town vested with such authority: Provided, that a permit shall not be required where such work is performed under a contract with the town but in the event such work requires a sidewalk or street to be wholly or partially obstructed, the person shall notify the clerk, the public works department and the police department at least two (2) hours before obstructing the sidewalk or street, unless prevented by sudden emergency.

Section 4-1022 Application for permit; fees.

All persons desiring a permit to make an opening in any street or sidewalk, as set forth in section 4-1021, shall make written application therefor, which application shall show the location of the proposed opening, the purpose therefor and the approximate number of square yards of surface to be cut. Such application shall be accompanied by a fee which shall be established by the council.

Section 4-1023 Municipal liability.

Any person obtaining a permit as provided for in sections 4-1021 and 4-1022 herein agrees as a condition of the issuance of said permit, to indemnify and hold harmless the town against any claims or expenses, including attorney's fees for bodily injury or property damage for accidents or occurrences arising out of the person's operations, excluding only the liability of the town for its sole negligence except in connection with general supervision of work performed by said person.

Section 4-1024 Supervision and control.

All excavations and work in streets, sidewalks, alleys or public places in the town shall be under the supervision and control of the superintendent of public works, whose duty it shall be to inspect the same from time to time during the progress thereof. Upon the completion thereof, he shall make a final inspection and see that the street, sidewalk or public place is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed therefrom. Any person refusing or failing to comply with any provision of this section shall be guilty of a violation thereof, and where such failure or refusal is continued after notice from the superintendent, every day's continuance shall constitute a separate and distinct offense.

Section 4-1025 Disposition of fees.

All fees collected under the provisions of this article shall be paid into the general fund.

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When any part of any street, sidewalk, alley or other public place of the town shall be torn or dug up for any purpose, the person making such excavation or opening shall have the duty of refilling such excavation or opening, and such refilling shall be done in accordance with the standards and specifications issued by the superintendent of public works or his duly authorized representative. Any person, firm or corporation neglecting, refusing, or failing to comply with any provisions of this section shall be guilty of a violation thereof; and where such neglect, refusal or failure is continued, after notice from the superintendent or his authorized representative, every day's continuance thereafter shall constitute a separate and distinct offense.

Section 4-1027 Excavations; leaving unprotected.

It shall be unlawful for any person, firm or corporation who obtains a permit under the sections of this article to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the town without placing and maintaining proper guard rails three (3) feet from the ground and signal lights or other warnings at, in or around the same, sufficient to warn the public of such excavation or work, and to protect all persons using reasonable care from ~~m~~juries on account of same. It shall be unlawful to cut drains or ditches across the sidewalks or streets unless boxing be used and the same covered on a level with the sidewalk.

Section 4-1028 Streets not to be damaged.

It shall be unlawful for any person, firm or corporation to drag, or run or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bithulitic, warrenite, or other type of permanently paved street of the town which shall be liable, in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

Section 4-1029 Violation; penalty.

~~All persons found guilty of violation of this article shall be guilty of a misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 30 days. Any person who shall violate a provision of this article shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.~~

Section 4-1030 Sidewalk construction.

No sidewalk of any description shall be built by any individual, firm or corporation of any brick, wood, or other material without a written permit from the town.

Section 4-1031 House moving.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the council and the deposit of a good and sufficient bond in

the sum of \$500 to cover damage done to such street or sidewalk or to any property of any person.

Section 4-1032 Damage to municipal property.

No person shall injure, tamper with, remove, paint upon or deface any bridge, culvert, ditch and drain, sign, sign post, street light, traffic sig~~n~~-nal, bulletin board or other municipal property upon the streets and sidewalks or elsewhere except employees of the town in the performance of their duties.

Section 4-1033 Permit to mix building materials.

No person shall mix any building materials on any street, sidewalk or other public place, unless a written permit therefor has been issued by the clerk or some other officer of the town vested with such authority. All persons desiring a permit to mix building materials shall make written application therefor, which application shall show the location of the proposed mixing and the kind and approximate amounts of materials to be mixed. The application shall be accompanied by a fee which shall be established by the council.

Section 4-1034 Driveways; permit required.

No person shall begin to construct, reconstruct, repair, alter, or grade any driveway on the public streets, unless a written permit therefor has been issued by the manager or some other officer of the town vested with such au~~thority~~.

Section 4-1035 Same; application.

(a) All persons desiring a driveway permit shall make application therefor, which application shall show:

- (1) The name and address of the owner or agent in charge of the property abutting and proposed work area;
- (2) The name and address of the party doing the work;
- (3) The location of the work area;
- (4) Attached plans showing details of the proposed alteration;
- (5) The estimated cost of the alteration; and
- (6) Such other information as the issuing officer shall find reasonably necessary to the determination of whether a permit should issue hereunder.

(b) The application shall be accompanied by a fee which shall be established by the council.

Section 4-1036 Same; standards.

The officer shall issue a permit hereunder when he finds:

- (1) That the plans for the proposed operation have been approved by the superintendent of public works, to whom they shall be forwarded by the officer within a reasonable time after receipt thereof;

(2) That the work shall be done according to the standard specifications of the town for public work of like character;

(3) That the operation will not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to and from the property affected and adjacent properties; and

(4) That the health, welfare and safety of the public will not be unreasonably impaired.

Section 4-1037 Same; construction.

Driveways shall be constructed of portland cement concrete in one course.

Section 4-1038 through section 4-1040 reserved.

ARTICLE C**Assignment and Display of Street Address Numbers****Section 4-1041 Assignment of street address numbers.**

The town shall be responsible for assigning street address numbers for all residential, institutional, industrial and commercial buildings located within the corporate limits of the town. If a building contains apartments or more than one business, each apartment and each business shall be assigned a separate street address number or letter or combination of numbers and letters to enable each such apartment or business to be separately identified. Property owners shall be responsible for applying by mail or in person at the town hall for assignment of a street address number (or, if applicable, numbers) for each such building. (Ord. of 9/3/91)

Section 4-1042 Display of street address numerals.

The owner of each residential, institutional, industrial or commercial building located within the corporate limits of the town shall display numerals representing the numbers assigned by the town on the building in such a manner that the numerals are plainly visible and legible from the street. The numerals shall be at least three (3) inches high. If a building is located so far from the street or is situated in such a manner that the numerals cannot reasonably be displayed on the building so as to be plainly visible and legible from the street, the owner shall display the numerals on the property close enough to the street and in such manner that the numerals representing the street numbers for the building shall be plainly visible and legible from the street. (Ord. of 9/3/91)

Section 4-1043 Enforcement.

Violators of this article shall be subject to a civil penalty of \$50; provided, however, a civil penalty shall not be assessed unless an owner or occupant of the property was first notified in writing that the property was not in compliance with this article and the owner failed to comply with this article within thirty (30) days from the date the written notice was given. Violators shall be issued a written citation which must be paid within 72 hours. Each day's continuing violation shall be a separate and distinct offense. (Ord. of 9/3/91)

ARTICLE D
Street Naming

Section 4-1044 through section 4-1050 reserved.

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ARTICLE E
Sidewalk Cafés

Section 4-1051 Purpose.

The purpose of this article is to allow sidewalk cafés on public sidewalks in locations where they are determined to be an appropriate amenity and to promote and protect the public health, safety and general welfare. These goals include, among others, the following specific purposes:

- (1) To provide adequate space for pedestrian use adjacent to sidewalk cafés and to insure access to adjacent commercial and retail uses;
 - (2) To promote sidewalk cafés as useful and properly planned visual amenities that better relate to the streetscape;
 - (3) To promote the most desirable use of land and buildings and thereby protect the town's tax revenues;
 - (4) To promote the historic character and ambiance of the downtown area of the Town.
- (Amendment of 2/11/13)

Section 4-1052 Area of Applicability.

The sidewalk café provisions of this article shall apply to the public sidewalk located along Main Street.

(Amendment of 2/11/13)

Section 4-1053 Definitions.

(a) Public sidewalk means sidewalk located in the public right-of-way that is public through dedication, easement or use.

(b) Sidewalk café means an outdoor dining area located on a public sidewalk that contains readily removable tables, chairs, railings and may contain planters. It is otherwise open to the air, and not enclosed by fixed walls, except that it may have an awning, canopy or umbrellas, or other non-permanent covers.

(c) Sidewalk café permit means the permit issued by the Planning Department which conforms to the procedures and regulations of this article.

(Amendment of 2/11/13)

Section 4-1054 Permit procedures.

(a) The Planning Director is authorized to issue to the owner or lessee of property abutting a public sidewalk a revocable sidewalk café permit authorizing the permittee to operate a sidewalk café on public sidewalk provided that the standards set forth in this article are complied with by the applicant. The sidewalk café permit shall be revocable, and the Town shall be allowed in its discretion to require the Applicant at any time to vacate all or part of the public sidewalk space the Applicant has been given permission to use. Upon request, the Applicant shall promptly vacate all or such portion of the public sidewalk space as the Town directs the Applicant to vacate, remove any personal property within such

sidewalk space, and return such sidewalk space to the condition it was in immediately prior to its use as a sidewalk café.

(b) The permit shall be an annual permit and it shall allow the operation of a sidewalk café from February 1 or thereafter until January 31 of the following year.

(c) An applicant for a sidewalk café permit shall obtain and provide evidence of general liability insurance in the amount of at least one million dollars (\$1,000,000) naming the Town of Valdese as an additional insured.

(d) An applicant shall submit with the application a sketch plan in compliance with Section 4-1055.

(e) The permit application shall be submitted on a form available from the Planning Department and shall include the following:

- (1) Name of the applicant;
 - (2) Applicant's address;
 - (3) Address of restaurant for which the sidewalk café requested;
 - (4) Name and address of property owner, if other than the applicant;
 - (5) Dates of proposed occupancy of the sidewalk café;
 - (6) Hours of proposed occupancy of the sidewalk café;
 - (7) Area of occupancy (square feet) and dimensions for sidewalk café;
 - (8) Proposed outdoor lighting and proposed use of musical instruments, sound reproduction systems or other entertainment, if any;
 - (9) Whether alcoholic beverages will be served at the outdoor café and, if so, provide proof of required license for such sales;
 - (10) Whether the application is a new application or a renewal of previously approved permit;
 - (11) Written authorization from the owner of the property to submit the application shall be required where the applicant is not the owner of the affected property;
 - (12) If the public sidewalk in front of an adjacent property is to be used, written authorization from said adjacent owner;
 - (13) Applicant shall execute a hold harmless agreement and an agreement to vacate the space upon request by the Town.
- (Amendment of 2/11/13)

Section 4-1055 Sketch plan.

(a) No sidewalk café shall be operated except in conformance with a sketch plan approved by the Planning Director.

(b) The sketch plan shall show the following:

(1) The proposed location of the sidewalk café in relation to the existing building/property. Indicate adjacent buildings, streets and other permanent structures within twenty-five (25) feet of the proposed location of the sidewalk café. Dimensions shall be included on the sketch so that the proposed layout can be adequately reviewed. Three (3) copies of the sketch plan shall be submitted on no smaller than an 11-inch by 17-inch sheet.

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(2) The plan must show the design, relevant details and location of all temporary structures such as awnings, planters, landscaping, railings, tables, chairs and other equipment, as well as lighting and electrical outlet locations.

(3) All exterior lighting, if any, shall be shown on the sketch plan and shall be of such type and location and shall have such shading as will prevent the source of light from intruding on any adjacent property or causing potential safety concerns for pedestrian or vehicular traffic on the adjacent roadways.

(c) The Planning Director shall distribute copies of the application and sketch plan to the Police Chief, Town Manager and Director of Public Works for review and comments as to compliance with this and other Town ordinances.

(d) Based upon the review and comments, the Planning Director may approve, approve with conditions, refer the application back to the applicant for modification, or deny the application. If approved, the Planning Director shall authorize the issuance of a sidewalk café permit.

(Amendment of 2/11/13)

Section 4-1056 Standards.

(a) There shall be a minimum of five (5) feet, exclusive of the area occupied by the sidewalk café, designed to allow safe, efficient and adequate pedestrian movement adjacent to the sidewalk café and street. Sidewalk cafés shall only be permitted where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. The sidewalk café area shall be separated from pedestrian traffic and vehicular traffic by an approved barrier. Temporary bollards, stanchions, planters or posts with railings, chain, rope, etc. may serve as an acceptable barrier. The actual materials used must meet with Town approval.

(b) Generally, sidewalk cafés may only be located adjacent to the establishment with which they are associated. This requirement may be waived, however, to extend the sidewalk café to an adjacent property if deemed appropriate and agreeable to the adjacent property owner.

(c) Sidewalk cafés shall be kept free of litter and food scraps at all times. The permit holder shall provide adequate refuse containers and shall not deposit refuse from its operations in town sidewalk refuse containers.

(d) Employees of the establishment shall continuously supervise sidewalk cafés at which alcoholic beverages are served.

(e) Furnishings of sidewalk cafés shall consist solely of readily removable awnings, covers, railings, tables, chairs, planters containing plants and accessories. When the associated establishment and sidewalk café are not open for daily use, all furniture and fixtures shall be removed or otherwise secured on the public property in a manner that does not create a public hazard. Furnishings shall be designed for outdoor use.

(f) A sidewalk café shall not interfere with any public service facility, such as, but limited to a public telephone, mailbox or bench located on a sidewalk.

(g) Operation of a sidewalk café shall not adversely affect adjacent or nearby properties and shall be operated in conformance with all applicable codes and ordinances.

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(h) Tables, chairs, umbrellas and any other objects provided with the sidewalk café shall be of quality design, materials and workmanship both to insure the public safety and convenience of users and to enhance the visual and aesthetic quality of the urban environment. While temporary, all such items must be adequately secured so as to prevent them from being blown off the property in inclement weather.

(Amendment of 2/11/13)

Section 4-1057 Operating restrictions.

(a) Hours of operation shall not be greater than those of the indoor restaurant from which the sidewalk café operates.

(b) All alcoholic beverages to be served at sidewalk cafés shall be prepared within the existing establishment and alcoholic beverages shall only be served to patrons seated at tables. The drinking of alcoholic beverages by a member of the public while a patron at a sidewalk café within the confines of the sidewalk café area shall not be construed as a violation of any ordinance controlling open containers in a public area. If the operation intends to serve alcoholic beverages in the sidewalk café area, the operator of the sidewalk café shall comply with all laws and regulations concerning the serving of alcoholic beverages in the State of North Carolina.

(c) The establishment shall not serve food or beverage to a patron at the sidewalk café area unless that patron is seated at a table.

(d) Sidewalk cafés and the public property on which they are located shall be kept neat and clean at all times and free from any substance that may cause damage to the sidewalk or cause pedestrian injury.

(e) The Town shall have the right to prohibit or restrict the operation of a sidewalk café because of anticipated or actual problems or conflicts. Examples of such problems or conflicts are festivals and similar events, parades, and repairs to the street, sidewalk or utilities within the public right-of-way. To the maximum extent possible, the café owner will be given prior written notice of any time period during which the operation of the sidewalk café may be affected.

(Amendment of 2/11/13)

Section 4-1058 Violations and penalty.

It shall be unlawful for any person to operate a sidewalk café without a permit or to violate any of the provisions of this article, and such a violation shall be punishable as follows:

~~(1) The violation shall be a misdemeanor and shall be punishable as provided in G.S. 14-4. In addition to and separated from other remedies provided in this article or otherwise provided by law, a violation shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.~~

~~—(2) In addition to and separated from other remedies provided in this article or otherwise provided by law, a violation shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town~~

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~~in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.~~
~~{Amendment of 2/11/13}~~

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CHAPTER 2
Solid Waste Ordinance

ARTICLE A

Definitions

Section 4-2001 Definitions.

Section 4-2002 through section 4-2009 reserved.

ARTICLE B

Control of Solid Wastes, Scrap Materials, Noxious Growth

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Section 4-2011 Dumping or littering on public or private property.

Section 4-2012 Transportation of solid waste within town.

Section 4-2013 Burning or burying solid wastes.

Section 4-2014 Scrap materials; declaration of policy.

Section 4-2015 Accumulation of scrap materials.

Section 4-2016 Noxious growth.

Section 4-2017 through section 4-2019 reserved.

ARTICLE C

Storage and Collection of Solid Wastes

Section 4-2020 Responsibility for providing adequate solid waste receptacles.

Section 4-2021 Size, number, and type of solid waste receptacles required.

Section 4-2022 Storage and collection practices; premises served by dumpsters.

Section 4-2023 Storage and collection practices; premises not served by dumpsters.

Section 4-2024 Special collection.

Section 4-2025 Town assistance in providing mobile containers.

Section 4-2026 Appeals of discretionary determinations.

Section 4-2027 Miscellaneous.

Section 4-2028 Recycling.

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ARTICLE D

Enforcement

Section 4-2030 Penalties and remedies.

Section 4-2031 Violations resulting from continuing conditions.

Section 4-2032 Summary abatement of condition dangerous or prejudicial to the public health.

Section 4-2033 Notice required.

Section 4-2034 Hearing procedures.

Section 4-2035 Order.

ARTICLE A Definitions

Section 4-2001 Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

Construction Debris: Rubbish from construction, remodeling and repair operation on houses, commercial buildings, and other structures, including but not limited to excavated earth, stones, brick, plaster, lumber, concrete, singles, and other roofing items, and waste parts occasioned by installation and replacement.

Garbage: All solid wastes capable of being rapidly decomposed by micro-organisms, including but not limited to animal and vegetable wastes resulting from handling, preparation, cooking, and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.

Hazardous waste: Potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, pain, caustics, infected material, offal, fecal matter (human and animal), and explosive.

Public Works Director: The Public Works Director or any other person designated by the manager to perform the functions and exercise the responsibilities assigned by this chapter to the Public Works Director.

Scrap Materials: Scrap materials are:

(a) Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope leather, rubber, paper, or any substance, that formerly were part of the construction of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing; or

(b) Objects or things, including but not limited to machines, tools, equipment, hardware, furniture, appliances, etc., or parts of the same that are no longer in serviceable condition or are valuable only as raw material for reprocessing; or

(c) Motor vehicles, motor vehicle parts or remnants thereof that (i) do not display current license plates, and (ii) cannot without substantial repairs be made to operate in the manner originally intended, and (iv) are valuable only as raw materials for reprocessing but that do not constitute solid wastes as herein defined because they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.

Solid Wastes: Wastes that are nongaseous and nonliquid (except that liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter).

Wastes: All useless, unwanted, or discarded materials resulting from domestic, industrial, commercial or community activities.

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Yard Waste: Organic materials such as leaves, pine straw, wheat straw, grass, weeds or hedge clippings that commonly result from yard and landscape maintenance. (Ord. of 12/6/04)

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ARTICLE B**Control of Solid Wastes, Scrap Materials, Noxious Growth****Section 4-2010 Accumulation of solid wastes.**

(a) Subject to the qualifications contained in subsection (b), no person may cause, suffer, or permit solid wastes to accumulate or remain on premises under his control except in accordance with the provisions of Article C of this chapter (Storage and Collection of Solid Wastes).

(b) Yard waste may be allowed to accumulate or remain on premises under a person's control unless those materials become or threaten to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise pose a danger to the public health or safety. (Ord. of 12/6/04)

Section 4-2011 Dumping or littering on public or private property.

No person may place, discard, throw, drop, or deposit, or cause to be placed, discarded, thrown, dropped or deposited any solid wastes on:

(1) Any public street or sidewalk within the town or on any property owned or operated by the town or any other public property, except in properly designated receptacles; or

(2) Any property not owned by him without the consent of the owner, occupant, or lessee thereof. (Ord. of 12/6/04)

~~State Law Reference: G.S. 14-399 makes the acts prohibited in this section a misdemeanor, punishable by a fine of not more than \$200.00. Therefore, this section may be enforced by the town only through civil penalties or injunctive relief.~~

Section 4-2012 Transportation of solid waste within town.

No person may transport or cause to be transported any solid wastes on the public streets of the town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids. (Ord. of 12/6/04)

Section 4-2013 Burning or burying solid wastes.

(a) No person may burn or cause to be burned any solid waste without first having obtained permission from the town fire department.

(b) No person may bury or cause to be buried any solid waste for purposes of disposal. (Ord. of 12/6/04)

Section 4-2014 Scrap materials; declaration of policy.

The Town Council hereby declares that the uncontrolled accumulation of scrap materials on any premises constitutes a danger to the health, safety, and welfare of the citizens of the town in that such accumulations can furnish shelter and breeding places for vermin, present physical dangers to the safety and well-being of children and other citizens, pose a danger of fire, and depreciate property values or cause a loss of business by detracting from the appearance and character of residential and commercial neighborhoods. (Ord. of 12/6/04)

Section 4-2015 Accumulation of scrap materials.

No person may cause, suffer or permit scrap materials to accumulate or remain on premises under his control unless the scrap materials are:

(1) Surrounded by a fence of sufficient height, strength, and construction to deny persons, especially small children, access to them and to shield neighboring properties from the view of them; or

(2) Are so stored within a structure or within a container outside of a structure as to minimize substantially the dangers set forth in Section 4-2015. (Ord. of 12/6/04)

Section 4-2016 Noxious growth.

No persons may cause, suffer, or permit on premises under his control any growth of weeds, grasses, or other plants or bushes that becomes or threatens to become a fire hazard or a harboring place for rats, mice, snakes, or other vermin or otherwise poses a danger to the public health or safety. (Ord. of 12/6/04)

ARTICLE C
Storage and Collection of Solid Wastes

Section 4-2020 Responsibility for providing adequate solid waste receptacles.

(a) The owner of every premises shall bear the ultimate responsibility for providing adequate solid waste receptacles to store the solid wastes that are typically generated by activities taking place on those premises pending removal (by town crews or otherwise).

(b) Every premises shall be served either by one or more mobile containers as provided by the town or by one or more dumpsters. The town shall assist qualifying owners of premises in fulfilling the obligation set forth in subsection (a) by making up to two containers available. The town will not pick up or otherwise be responsible for collection of solid wastes stored in mobile containers that are not compatible with town collection equipment. (Ord. of 12/6/04)

Section 4-2021 Size, number, and type of solid waste receptacles required.

(a) Subject to the provisions of this section, and whenever possible after consultation with the owner of the premises concerned, the Public Works Director shall determine the number and type of solid waste receptacles (mobile containers or dumpsters) that must be provided for all premises in accordance with Section 4-2020. In making this determination, the Public Works Director shall consider the type of activities on each premises and the amount of solid wastes likely to be generated by those activities, as well as the welfare of the occupants and neighbors of those premises and the town's need to facilitate collection and minimize the cost of this service.

(b) Unless otherwise determined by the Public Works Director for good cause shown, when five or more dwelling units are located on a single lot, the owner of the premises shall at the owner's cost contract with a commercial garbage service for one or more dumpsters so that the following criteria relating to capacity are satisfied:

(1) Two cubic yards of storage capacity are provided for every eight (8) dwelling units or fraction thereof.

(2) If more than one dumpster is required, the owner shall provide the smallest number of dumpsters capable of satisfying the requirements stated in subdivision one of this subsection.

(c) Unless otherwise determined by the Public Works Director for good cause shown, whenever any nonresidential premises requires more than two of the mobile containers as provided by the town to satisfy the requirement stated in subsection 4-2020(a) or whenever any residential premises requires more than five such containers to satisfy this requirement, one or more dumpsters of an appropriate size will be required.

(d) Mobile containers shall be used to store and dispose of solid waste materials in accordance with the provisions of this article.

(e) It shall be the responsibility of each customer to safeguard and protect mobile containers from theft, loss or damage, and to report any damage to or loss of the container to the town Public Works Department upon discovery of theft, loss or damage. Customers shall be responsible for theft, loss or damage to the container, reasonable wear and tear excepted.

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(f) It shall be unlawful to willfully break or damage any town owned mobile container. Any person or entity violating this section shall be required to purchase a replacement container from the town and may also be subject to the civil penalties as outlined in this article.

(g) Mobile containers shall remain at the assigned locations after the owner or occupant of the property at which the container is located vacates the property. (Ord. of 12/6/04)

Section 4-2022 Storage and collection practices; premises served by dumpsters.

With respect to premises served by dumpsters:

(1) The owner of the premises shall be responsible for contracting with a private contractor for waste disposal services.

(2) The location of dumpsters shall be determined by the Public Works Director and, whenever possible, this determination shall be made after consultation with the owner of the premises concerned. In making this determination, the Public Works Director shall consider the welfare of the occupants of the premises, neighbors and passersby, and the town's need to facilitate collection and minimize the cost of service.

(3) Solid wastes shall be collected from the dumpsters by the owner's contractor at least weekly.

(4) The Public Works Director may require that screening be provided around the dumpsters if he determines that such screening is necessary to prevent solid wastes from being scattered about the site or transported onto neighboring properties or if the location of the dumpsters is such that, in the absence of screening, the dumpsters would present an offensive appearance or cause offensive odors to be transmitted to occupants of the site, neighboring properties or passersby.

(5) All solid wastes shall be stored in dumpsters pending collection.

(6) All dumpsters shall be cleaned periodically to minimize offensive odors.

(7) No person may place within any dumpster any solid waste without the permission of the owner or occupant of the premises on which the dumpster is located.

(8) No person may place within any dumpster any solid waste that may not be placed for collection within mobile containers, as specified in Section 4-2023.

(9) Garbage shall not be allowed to be placed or accumulated beside or around the dumpster or otherwise on the premises on which the dumpster is located.

(10) Covers shall not be required unless otherwise required by law in which event they shall also be required by this article.

(11) The dumpster shall not be filled with solid waste above the height of the dumpster.

(12) If the dumpster deteriorates to such an extent that, in the judgment of the Public Works Director, it no longer adequately serves its intended function or if the dumpster presents an offensive appearance or causes offensive odors to be transmitted to occupants of the site or neighboring property or passersby, the Public Works Director shall so inform the owner of the premises involved and the owner shall either have the dumpster repaired to the reasonable satisfaction of the Public Works Director or replaced at the expense of the owner. (Ord. of 12/6/04)

Section 4-2023 Storage and collection practices; premises not served by dumpsters.

(a) The provisions of this section shall apply to premises not served by dumpsters.

(b) Except as otherwise provided in this section, all solid wastes may be stored, pending collection by the town, only in the mobile containers provided by the town, and the top of such containers shall at all times be kept securely fastened. Such mobile containers shall be kept between scheduled pick ups either within a completely enclosed substantial structure such as a house, garage, or shed, or:

(1) If a lot has frontage on only one street, then such mobile containers shall be located behind the building line of the side of the principal building on that lot that faces the street;

(2) If a lot is a corner lot, then such mobile containers shall be located behind the building line of the side of the principal building on that lot that faces the street;

(3) If a lot has frontage on two streets that are more or less parallel, then such mobile containers shall be located behind the building line of the front of the principal building on that lot but (if possible) not closer than forty-five feet to the center line of the street that runs along the rear of such lot. If mobile containers stored behind the front building line must be located within forty-five feet of the centerline of the street that runs along the rear of such lot, then such mobile containers shall be located along the side of the principal building.

(c) Mobile containers shall be placed adjacent to the street (on the street side of any drainage ditch or swell) for collection on the scheduled collection day or after dark on the preceding day. After collection, all mobile containers and all uncollected solid wastes shall be removed to a storage location that complies with subsection (b) of this section by 6:00 a.m. on the day following the collection day.

(d) If the Public Works Director determines that, because of the physical infirmity of the occupant of any premises or the physical characteristics of the premises, the occupant cannot without severe hardship transport the solid wastes from the storage location required by subsection (b) of this section to the collection point required by subsection (c) of this section, he may do one of the following:

(1) Provide assistance in transporting the mobile container to and from the collection point;

(2) Provide pick up service of solid wastes stored in bags in such manner and kept in such place as the Public Works Director may determine

(e) Containers other than those mobile containers provided by the town may be treated as solid wastes and collected by the town or its contractor, or the owner's contractor. The town or its contractor reserves the right to refuse to collect solid wastes not placed in the approved containers as provided by the town.

(f) No person may cause, suffer, or permit any garbage can or solid waste receptacles other than mobile containers provided by the town to be stored in any location that does not comply with the provision of subsection (b) of this section dealing with the storage location of mobile containers.

(g) Yard wastes may not be placed in the mobile containers for collection by the town.

(h) Clean cardboard that is broken down and stacked beside a mobile container will be collected by the town at the time it collects the waste in the mobile containers. With the exception of such cardboard, the town will not collect solid waste not located inside the mobile containers.

(i) The following items may not be placed within mobile containers:

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- (1) Building materials, including but not limited to such items as lumber, shingles, bricks, sheet rock, insulation, etc.
- (2) Paint, gasoline, antifreeze, flammable liquids, solvents, or other liquids containing hazardous chemicals.
- (3) Motor oil.
- (4) Wet cell batteries.
- (5) Tires.
- (6) Ashes or hot coals.
- (7) Any liquid waste not enclosed in a tight container.
- (8) Hazardous waste. (Ord. of 12/6/04)

Section 4-2024 Special collection.

(a) Brush, yard waste, and leaves: The town will collect brush, yard waste and leaves subject to the following conditions and requirements:

- (1) The town will not collect stumps.
- (2) Brush piles which include brush resulting from the clearing of property or brush from property other than the property at which the brush pile is located will not be collected.

(3) Brush must not be located under a power line or at a location that may jeopardize the safety of the town employees collecting the brush.

(4) Brush must be cut so as to enable town employees to pickup the brush using the town's brush collection equipment. Brush, yard waste and/or leaves must be neatly piled at the curbside.

(5) Upon request of the property owner, town employees may go onto the property to collect brush if:

(i) In the judgment of the Public Works Director, going onto the private property to collect the brush would be safe, cost effective and at least as convenient to the town employees as would be picking up the brush at curbside; and

(ii) The property owner has signed a release and authorization form as approved by the Town Manager authorizing town employees to go onto the property to pick up the brush and releasing the town from any liability for damage to the property resulting from the collection of brush on the property of the owner.

(6) Brush, yard waste, and leaves will be collected at such times and subject to such additional requirements as established by the Public Works Director from time to time.

(b) Construction debris:

(1) The town will not collect construction debris resulting from work performed by a contractor. The contractor and the property owner shall be responsible for promptly disposing of all such construction debris.

(2) Construction debris resulting from work performed by the property owner, individually, (not through a contractor) will be collected by the town provided that the property owner pays the town in advance a fee as determined by the Public Works Director to cover the cost of the collection and disposal of the construction debris.

(3) Roofing shingles and hazardous waste or materials, including paints and lacquers, will not be collected by the town.

(c) Furniture and white goods: The town will collect only furniture and white goods (appliances) that result from the residential use of the property at which they are to be collected. Such furniture and white goods will be collected at curbside at such times and subject to such other requirements as established by the Public Works Director.

(d) Tires: The town will collect only those tires that result from the residential use of the property at which the tires are to be collected; provided, however, (i) that the property owner must pay in advance a fee as determined by the Public Works Director to cover the cost of collecting and disposing of the tires; and (ii) that if the tires have not been separated from the rims, an additional fee as determined by the Public Works Director must be paid in advance for separating the tires from the rims. (Ord. of 12/6/04)

Section 4-2025 Town assistance in providing mobile containers.

(a) The town shall provide to all premises that receive (or are entitled to receive) solid waste collection service from the town (except those premises required to be served by dumpsters in accordance with Section 4-2021), and without charge to the owners of such premises, the following number of mobile containers described in subsection 4-2021(d):

(1) For residential premises, one mobile container per dwelling unit.

(2) For non-residential premises, the number of mobile containers deemed necessary by the Public Works Director in accordance with Section 1.1-10.

(b) To assist persons who desire mobile containers in addition to the containers distributed in accordance with subsection (a), the town shall keep an inventory of mobile containers and make such containers available at cost to those who wish to purchase them. In cases where the purchase of such containers poses a severe financial hardship, the town may provide an installment purchase option whereby a person may pay the purchase price over a period not in excess of twelve months.

(c) The public works department may assist persons who own mobile containers in repairing such containers if they are reparable and the town may provide spare parts. No charge shall be made for any labor involved in this service. (Ord. of 12/6/04)

Section 4-2026 Appeals of discretionary determinations.

(a) Subject to subsection (b), whenever this article authorizes the Public Works Director to make a discretionary determination, all persons affected by the determination shall comply with it within fifteen days after receiving written notice of the determination.

(b) Any person who receives a written determination in accordance with section (a) may appeal that determination to the manager by filing a written notice of appeal within fifteen days after receiving such written determination. An appeal stays any further enforcement until the appeal is disposed of in accordance with this section.

(c) The town manager shall hear the appeal in any manner that fairly gives the appellant and the Public Works Director an opportunity to present their respective sides of the matter at issue. The appeal shall be heard and decided as expeditiously as possible and the manager shall inform the appellant in writing of his decision.

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(d) The town manager may refer the appeal to the town council to obtain the council's recommendation on the appeal.

(e) If an appeal is taken as provided in subsection (a), and a decision is entered and delivered as provided in subsection (c), then all persons shall comply with that decision within ten days after receipt of notice of such decision. (Ord. of 12/6/04)

Section 4-2027 Miscellaneous.

(a) Collection routes and schedules. The Public Works Director shall establish collection routes and schedules and may alter these routes and schedules from time to time. A copy of the current routes and schedules shall be kept on file in the office of the town clerk. Notice of any changes in routes or schedules shall be published in the local newspaper or given by letter at least ten day before the changes are to become effective.

(b) No person may damage, displace, or otherwise interfere with solid waste receptacles or solid wastes stored or prepared for collection except with the consent of the owner, lessee, or occupant of the premises where those receptacles or solid wastes are located.

(c) To assist the town in the enforcement of this article, the owner of any premises that is occupied by another shall provide to the town upon request the name of such lessee or occupant.

(d) In addition to other enforcement remedies set forth in Article IV of this chapter, the town may refuse to provide collection service to any premises where violations of this article exist. Without limiting the generality of the foregoing, the town may refuse to service any dumpster or mobile container that contains wastes that are not permitted to be stored therein. (Ord. of 12/6/04)

Section 4-2028 Recycling.

(a) The town strongly encourages recycling efforts. Recycling containers (one per dwelling) are provided by the town at no charge and remain the property of the town. Additional containers will be provided by the town upon payment of a fee established by the town.

(b) Recycling containers shall be stored and placed for collection in accordance with the same requirements applicable to mobile containers (see Section 4-2023).

(c) Only those materials that are acceptable for recycling shall be placed within the recycling containers. The public works department shall provide adequate public notice of the types of solid wastes that may be placed within these recycling containers for collection by the town. (Ord. of 12/6/04)

Section 4-2029 reserved.**ARTICLE D
Enforcement****Section 4-2030 Penalties and remedies.**

~~(a) Any violation of any of the provisions of this chapter shall constitute a misdemeanor punishable as provided in G.S. 14-4.~~

(~~b~~a) A violation of any of the provision of Articles B or Article C of this chapter shall subject the offender to a civil penalty of \$100. If the offender fails to pay this penalty within fifteen calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(~~e~~b) Each day that any violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (a) ~~and (b)~~ of this section shall constitute a separate offense.

(~~d~~c) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(~~e~~d) The town may enforce this chapter by any one of or any combination of the foregoing remedies. (Ord. of 12/6/04)

Section 4-2031 Violations resulting from continuing conditions.

(a) Whenever a violation of this chapter results from a continuing condition rather than a single event, a written notice shall be sent to the last known address of the responsible person specifying the nature of the violation and what must be done to correct it, requiring the responsible person to correct the violation within ten calendar days after delivery of the notice, and informing the responsible person of the possible consequences of his failure to comply.

(b) Whenever a violation of this chapter results from a continuing condition rather than a single event, the penalties and remedies provided for in Section 4-2030 may not be invoked until after the ten-day correction period specified in subsection (a) has expired. (Ord. of 12/6/04)

Section 4-2032 Summary abatement of condition dangerous or prejudicial to the public health.

If the town council concludes, after notice and hearing as provided in this part, that any condition or situation prohibited by this chapter or any other condition or situation is dangerous or prejudicial to the public health or safety, it may order town officials to summarily remove, abate, or remedy everything so found within the town limits, and impose a lien upon the land affected to recover the costs of the nuisance abatement. (Ord. of 12/6/04)

Section 4-2033 Notice required.

Before the action authorized by Section 4-2032 is taken, notice shall be sent to the respondent, informing him:

(1) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;

(2) When and where the town council will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;

(3) That if the town council determines that the cited condition is dangerous or prejudicial to public health or safety, it may order town officials to summarily abate, remedy, or correct the offending condition;

(4) That the expenses incurred by the town in connection with the actions described in subdivision (3) of this section, if not paid by the respondent, shall become a lien upon the land where the offending condition is located, to be collected as unpaid taxes. This notice shall be sent by mail (certified, deliver to addressee only, return receipt requested) not later than five calendar days prior to the scheduled hearing, or delivered to the respondent by a town officer or employee not later than three days prior to the scheduled hearing. For purposes of this part, the respondent is the person who is responsible for the offending condition, as well as the owner of the property where the offending condition is located, if different from the former. (Ord. of 12/6/04)

Section 4-2034 Hearing procedures.

At the hearing held pursuant to this part, the town administration shall be responsible for presenting sufficient evidence to the town council to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The town council may consider all reliable evidence and need not be bound by the strict rules of evidence applicable to courts of law, but all witnesses shall be sworn. The respondent may be represented by counsel and may present evidence. All parties may cross-examine adverse witnesses. At the conclusion of the hearing, the town council shall make findings of fact, state its conclusions, and enter an appropriate order. The town council's findings of fact, conclusion, and order shall be reduced to writing and a copy sent by mail or delivered to the respondent within three days following the hearing. (Ord. of 12/6/04)

Section 4-2035 Order.

If the town council concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

(1) Order appropriate town officials or employees to summarily remove, abate, or remedy everything so found and to assess the cost of this action against the respondent in accordance with Section 4-2032 of this article; or

(2) Order the respondent to correct the situation within a specified time period and order town officials to abate, correct, or remedy the offending condition if the respondent fails to act within the prescribed time limits. (Ord. of 12/6/04)

CHAPTER 3 Municipally Owned Cemeteries

Section 4-3001 Cemetery lot sales.

Section 4-3002 General rules.

Section 4-3003 Prohibited activities.

Section 4-3004 Memorials.

Section 4-3005 Automobiles and other vehicles.

Section 4-3006 General supervision.

Appendix I Certificate for grave site in municipal cemetery.

Appendix II Assignment of grave site.

Section 4-3001 Cemetery lot sales.

(a) The sales price of grave sites in the town- owned cemetery shall be \$300 for persons residing within the corporate limits of the town and \$500 for persons residing outside of the corporate limits of the town.

(b) The right to use the grave site as a burial place is vested in the owner of the grave site as listed in the records of the town only. No assignment or transfer of a grave site shall be valid until approved by the town. Upon presentation of a document assigning the grave site in the form approved by the town, signed by the owner or, if applicable, the executor or administrator of the owner's estate, or upon presentation of other written evidence satisfactory to the town that the grave site has been sold or transferred to the grantee, and upon payment of a \$25 transfer fee, the town shall then issue a new certificate for the grave site to the grantee.

(c) The deed for a grave site in the town cemetery shall be in the form approved by the town council. The town manager is authorized to execute deeds for grave sites on behalf of the town.

(d) Copies of the aforementioned forms appear as Appendices I and II at the end of this chapter. (Ord. of 4/6/92; as amended by Ord. of 8/1/94; Ord. of 2/2/04)

Section 4-3002 General rules.

(a) All persons are reminded that the cemetery grounds are sacredly dedicated to the interment and repose of the dead and strict observance of the decorum due to such a place will be expected and required by all.

(b) The town reserves the right to determine, establish, modify, alter or change the grade of each and every grave site, road, driveway, pathway or part thereof, and it shall not be liable to anyone for any such action.

(c) No grave site owner shall make any changes or alteration in or on any grave site including the removal or change in position of any memorial of any kind without the written consent of the town and if so made, the town will restore such site to its former condition without notice and at the expense of the owner of such site.

(d) No coping, curbing, fencing, hedging, borders, corner posts, or enclosure of any kind will be allowed around any grave site and no walks of brick, cinders, tile, stone, sand, cement,

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gravel or wood or other materials will be allowed on any grave site. The town reserves the right to remove the same if so erected, platted, or placed.

(e) No trinkets, toys, shells, pickle jars, tin cans, sand, artificial material, or any item, which in the opinion of the town is unsightly, will be allowed on any grave site, and all such articles, materials and items will be removed without notice and the town shall not be responsible for the loss or destruction of the items.

(f) Opening and closing of graves shall be done by a state-licensed undertaker, using commonly accepted practices to insure that the site is restored to its natural state.

(g) No person shall dig, exhume or cause to be dug or exhumed any grave or body in the cemetery without first having obtained a permit from the county health officer and from the town manager.

(h) The width of graves shall not be less than 3 inches greater than the liner width on each side. A minimum of 15 inches of soil shall be placed over the liner and the grave made approximately level with the lot. The grave shall be seeded or covered with sod as conditions allow.

(i) Concrete, steel or fiberglass grave liners shall be used for all burials. Wooden or other short term liners may not be used.

(j) No person shall take any dog, cat or other animal into the town-owned cemetery or allow any animal to run at large therein. (Ord. of 4/6/92)

Section 4-3003 Prohibited activities.

The following activities are not permitted in or on the cemetery grounds:

(1) Loud, boisterous or obscene language or whistling and singing, except when part of a memorial and interment service.

(2) Improper conduct or unseemly noise.

(3) Picnicking, lunching, camping, hunting, playing, loitering, lounging, sledding or other recreational activities.

(4) Cutting, picking or pulling flowers or plants whether cultivated or wild; breaking branches from any shrub or trees; scratching, marring, defacing, injuring or disturbing any monument or head or footstone, or any other thing being a part of or placed or used in connection with the cemetery grounds, or any lot, pathway, street or roadway therein.

(5) Putting or depositing paper, rubbish, dead or wilted flowers, shrubs, plants, branches or any unsightly or unseemly thing on any lot, walk, drive or other part of the cemetery, except in receptacles provided for that purpose.

(6) Sitting or climbing on a marker, monument or fixture of any kind.

(7) Peddling, begging, soliciting or collecting.

(8) The display or distribution of signs, cards, handbills, circulars or anything relating to any business, profession, office or other matters.

(9) The placing of flowers, floral or other arrangements in alcohol or other preservatives, or under glass or other enclosures. (Ord. of 4/6/92)

Section 4-3004 Memorials.

(a) Definitions.

(1) Grave ledger. A tablet of cut stone covering an entire grave and installed flush with the ground.

(2) Headstone. A memorial of granite or other natural cut stone approved by the town, extending above the surface of the ground and being of such size and inscription to mark an individual grave.

(3) Marker. A memorial of granite or other natural cut stone approved by the town installed flush with the ground and of a size and inscription as to mark an individual grave.

(4) Memorial. Any monument, marker, headstone, tablet or other object memorializing the deceased.

(5) Monument. A memorial of granite or other natural cut stone approved by the town, extending above the surface of the ground and being of such size and inscription to mark two or more graves.

(6) Tablet. A flat piece of marble or granite used as a base for a memorial of real bronze and of a size as to mark an individual grave (herein called a small tablet) or two or more graves (herein called a large tablet).

(b) Approval by town. The town reserves the right to approve and prescribe the kind, size, design, symbolism, craftsmanship, quality and material of memorials placed in the town cemetery. Only those materials conforming to the specifications contained herein shall be allowed and permission shall be secured from the town. Any installation of memorials without the town's approval is prohibited and memorials so installed or otherwise not conforming to these regulations may be removed by the town.

(c) Memorial allowed.

(1) A single grave site is allowed one headstone and one marker or small tablet. A headstone shall not exceed 60 inches in length, including the base, 36 inches in total height, and 18 inches in width at the base. A marker shall not exceed 28 inches in length, 18 inches in depth and shall be installed flush with the surface of the ground. A small tablet shall not exceed 30 inches in length, 18 inches in depth and shall not project above the surface of the ground.

(2) A lot consisting of two or more adjacent grave sites is allowed one family monument or large tablet in lieu of any headstones. In addition, one marker will be allowed for each grave site. Markers shall meet the dimensional requirements as established for single grave sites. A large tablet may not exceed 84 inches in length, 24 inches in width, and shall not project above the surface of the ground. A family monument shall not exceed 96 inches in length including the base, 48 inches in total height, and 24 inches in depth at the base.

(3) No family monument or large tablet will be allowed if individual headstones exist nor will individual headstones be allowed if a family monument or large tablet exists. Only one family monument or large tablet will be permitted on any lot.

(d) Inscriptions on memorials shall be carefully spaced and accurately set in line, both vertically and horizontally. Names, dates, inscriptions and emblems shall be arranged so as to result in an orderly and neat appearance. No paint or other artificial coloring other than a lithochrome shadow which shall meet standards accepted by the monument industry shall be used. Inscriptions shall contain no words, pictures or emblems of an inflammatory or insulting nature and shall be in keeping with the propriety and sanctity of the cemetery. Memorials not meeting these requirements will not be allowed.

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(e) (1) All memorials shall be erected upon sound foundations. Foundations shall be as long and as wide as the memorial base and shall extend to undisturbed soil at the top of the grave liner. Foundations shall be installed in such a manner as to prevent sinking or movement of a memorial.

(2) Persons or firms installing a memorial shall secure the town manager's, or his designee's, approval of the foundation and shall clean the site of debris or materials upon completion of work. In the event of the sinking or moving of a memorial, repairs to the installation shall be made within 15 days of request, or the town may withhold permission for further installations until work is corrected.

(f) Exceptions to specifications where nonconforming memorials exist. Where memorials do not conform to the dimensional requirements herein currently exist on a cemetery lot, the installation of new memorials of the same size may be approved by the town manager. (Ord. of 4/6/92; as amended by Ord. of 8/1/94)

Section 4-3005 Automobiles and other vehicles.

The following actions involving automobiles and other vehicles are prohibited:

(1) The driving of automobiles or other vehicles on the cemetery grounds at speeds in excess of 15 mph.

(2) Driving any automobile or other vehicle across or upon any grave, lot, lawn or parking or leaving the same thereon.

(3) Parking or leaving any automobile or other vehicle in any driveway within the cemetery grounds at such location or in such position as to prevent any other automobiles or vehicles from passing. If an automobile or vehicle is left in such position, the cemetery will cause it to be removed.

(4) Leaving an automobile or vehicle parked on the grounds of the cemetery between the hours of 9:00 p.m. and 7:00 a.m., or at any other time when not visiting the cemetery or at the cemetery for authorized business. (Ord. of 4/6/92)

Section 4-3006 General supervision.

The town shall take reasonable precautions to protect grave site owners and the burial rights of grave site owners within the town cemetery from loss or damage; but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, whether damage be direct or collateral. The town shall not be responsible for any plantings, memorials or private equipment located within the cemetery. (Ord. of 4/6/92)

APPENDIX I TOWN OF VALDESE CERTIFICATE FOR GRAVE SITE IN MUNICIPAL CEMETERY

Grave site no. \$

THIS IS TO CERTIFY that the right to use the following grave site in the Town of Valdese Municipal Cemetery for burial purposes is hereby vested in:

whose address is

This certificate is subject to the rules, regulations and ordinances governing the Town of Valdese Municipal Cemetery which have been or may hereafter be adopted by the Town Council of the Town of Valdese, North Carolina.

Only the Grantee named above shall have the right to use the above-described grave site as a burial site. The assignment or other transfer of this grave site shall not be valid until presentation to the Town of Valdese of a properly executed document in the form proscribed by the Town of Valdese assigning this grave site to a Grantee and upon payment of any transfer fee established by the Town of Valdese.

IN WITNESS WHEREOF, the Town of Valdese through its Town Manager has caused this certificate for grave site to be executed this day of , 19.

TOWN OF VALDESE

by:

Town Manager

APPENDIX II ASSIGNMENT GRAVE SITE

The undersigned does hereby convey and assign the following grave site in the Town of Valdese Municipal Cemetery to:

whose address is

Grave site no.

I request the Town of Valdese to make such transfer on its records and issue a new certificate for grave site to the above-named person.

THIS the day of , .

(SEAL)

(SEAL)

(SEAL)

STATE OF NORTH CAROLINA

COUNTY OF

I, , Notary Public, do certify that personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal this day of , .

My Commission Expires: (SEAL)

Notary Public

PART 5
Municipal Utilities

- Chapter 1. Water Supply and Distribution
- Chapter 2. Sewage Collection and Disposal
- Chapter 3. Sewer Use
- Chapter 4. Fats, Oils and Grease Control

DRAFT

CHAPTER 1
Water Supply and Distribution

- Section 5-1001 Definitions.
- Section 5-1002 Council to regulate water system.
- Section 5-1003 Permit for connection required.
- Section 5-1004 Separate connections required.
- Section 5-1005 Water required.
- Section 5-1006 Use of town water.
- Section 5-1007 Utility rates; cutting off water.
- Section 5-1008 Tampering with or obstructing water lines prohibited.
- Section 5-1009 Water superintendent.
- Section 5-1010 Work on water system.
- Section 5-1011 Owners of more than one house.
- Section 5-1012 Non-payment of bills.
- Section 5-1013 Resale of water.
- Section 5-1014 Access to property.
- Section 5-1015 Fire hydrants.
- Section 5-1016 Adjustment of bills for meter.
- Section 5-1017 Meter accuracy and test rates.
- Section 5-1018 Separate connections required; exceptions.
- Section 5-1019 Water rates generally.
- Section 5-1020 Water bills generally.
- Section 5-1021 Partial payments of bills.
- Section 5-1022 Water conservation practices.
- Section 5-1023 Cross connection control, backflow prevention assemblies required, program established.

Section 5-1001 Definitions.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Apartment. Living accommodation with a separate hall or outside entrance and containing separate kitchen facilities which include a stove, refrigerator and sink, and a bath or shared bath. (Ord. of 10/8/79)

Unit. Includes the following:

- (1) A dwelling used for residential purposes by a single family, including additional separate structures used for residential purposes by the single family.
- (2) A house or building in which at least 60% of the heated space is used as a single-family dwelling by the owner and one (1) additional apartment.
- (3) Each additional apartment in excess of one (1) in houses or buildings set out in division (2) above.

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(4) Each separate building used for industrial or commercial purposes by an owner or tenant.

(5) Each apartment and each commercial or industrial tenant of a single house or building, except as provided in division (2) above. (Ord. of 10/8/79)

Section 5-1002 Council to regulate water system.

The water system of the town shall be under the control of, and the duty of prescribing and enforcing a full compliance with all rules and regulations governing all connections with the water system shall be vested in, the council or its authorized agent.

Section 5-1003 Permit for connection required.

No person shall connect with the water system of the town until they shall have made application for permission to so connect in writing to the clerk, and this application shall be made before any part of the drainage system of the house or other connection shall have been laid or constructed. Such application shall be accompanied with a plan or drawing showing the location of the building and the entire proposed connection from the public sewerage lines through the building to its terminus, showing the location of all the fixtures, traps, ventilating pipes, etc., and shall state the name of the street and the name of the person.

Section 5-1004 Separate connections required.

Each individual business and each residential building or structure is required to have a separate water connection. Separate water meters are required for new in-ground irrigation systems that are connected to the Town of Valdese water system.

(As amended 6/1/09)

Section 5-1005 Water required.

All owners of improved property located within the corporate limits and upon or within a reasonable distance of any water line owned and operated by the town shall be required to connect their premises with the town water system. (As amended 11/3/80)

State Law Reference: Authority to require connections, G.S. 160A-317.

Section 5-1006 Use of town water.

No person shall take or carry away water from any watering trough, public fountain, or other public place.

Section 5-1007 Utility rates; cutting off water.

(a) Water rates, deposits, connection and reconnection charges shall be determined from time to time by the council and shall be kept on file in the office of the clerk.

(b) It shall be unlawful for any person other than a person authorized by the town officials to cut off the town supply of water.

Section 5-1008 Tampering with or obstructing water lines prohibited.

No person shall touch, tamper with or in any manner manipulate or turn the cut-offs on the water mains forming a part of the water system of the town, nor shall any person tamper with or harm in any manner whatsoever any water line, main or any appurtenance thereto. No person shall throw or deposit any material or substance into any water line that will in any manner obstruct such line.

Section 5-1009 Water superintendent.

The manager may select some competent person to supervise under his general control the entire water system of the town. The manager may from time to time prescribe the duties and responsibilities of the superintendent.

Section 5-1010 Work on water system.

All work on the water system and all connections or disconnections thereto shall be performed by the authorized employees of the town or their representatives or plumbers approved by the town. All work shall be performed in accordance with the plumbing code of the state and the town and such amendments thereto that the council may from time to time adopt.

Cross Reference: All technical codes, including plumbing, are covered in section 9-2021 et seq.

Section 5-1011 Owners of more than one house.

Any property owner having more than one house using water from the same water tap shall be responsible for water bills for all the houses.

Section 5-1012 Non-payment of bills.

When the water that is being used by any person, firm or corporation has been cut off because of the non-payment of the water account, such person, firm or corporation shall pay a fee fixed by the board and kept on file in the office of the clerk before such water shall be turned back on.

State Law Reference: Discontinuance of service for delinquency. G. S.160A-314.

Section 5-1013 Resale of water.

No residence, or ~~firm~~ firm or corporation shall furnish water for any other residence, firm or corporation through any one meter, by way of piping or tubing. Each additional residence, firm or corporation must have its own separate water meter, if it is to be served by the town.

Section 5-1014 Access to property.

The superintendent or his assistant shall at all reasonable hours have free access to all premises for the purpose of examining hydrants, fixtures or connections on which town water pressure is maintained.

Section 5-1015 Fire hydrants.

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No person, except employees of the town, or other persons authorized by the manager, shall take water from any public hydrant, plug, street washer, draw cock, hose pipe or fountain, except for fire purposes, nor shall anyone in any way use or take water for private use unless such person shall pay for the privilege and receive a permit from the manager.

Section 5-1016 Adjustment of bills for meter error.

The superintendent may, with the approval of the manager, adjust and settle inequitable and abnormal water bills due to meter error.

Section 5-1017 Meter accuracy and test rates.

The town shall test or cause to be tested and make a thorough examination of water meters and all fixtures where so desired by the consumer under the following conditions:

(1) Should the test of meter and inspection prove the excessive bill to be caused by negligence of the town, or inaccuracy of the meter, then the expense of the investigation shall be borne by the town.

(2) Should the test and inspection prove to be the fault of the consumer or any person not connected with or in the employ of the town, then the actual cost of the investigation is to be borne by the consumer making the protest and asking for the inspection, said actual cost to be fixed by the council.

Section 5-1018 Separate connections required; exceptions.

Every house or building abutting any water or sewer main and requiring a water or sewer connection shall be separately and independently connected. However, in those cases where laterals have already been laid in macadam or approved streets from the main without provisions being made for the house or building, the connection may be made to an existing lateral. If the house or building is on a macadam or improved street where laterals have not been laid, the connection may be made to any convenient lateral. When two (2) or more units are connected with the same water lateral, a separate water meter shall be provided for each such unit. (Ord. of 10/8/79)

Section 5-1019 Water rates generally.

All units shall have individual meters. In existing cases, a customer supplying two (2) or more units through one (1) meter will be charged, in addition to the regular rate, the regular minimum charge per month for each additional unit so supplied. However, two (2) or more units occupying the same building or house, all using the same opening, shall be considered as one (1) unit. (Ord. of 10/8/79)

Section 5-1020 Water bills generally.

Bills for water rents shall be based on the actual reading of the amount of water used. However, when the amount of water used is not registered because of a defective meter, the bill rendered shall be for the average amount heretofore used by the premises served by the meter during the preceding three (3) quarters or months (as the quarterly or monthly rate is allowed), or during the portion of that period for which water rent records are available.

Or, if water was not consumed by the premises through the meter during the preceding period, the bill rendered shall be for the average amount for other services of the same class in the town during the period covered by the bill. Bills shall be rendered separately for each service or connection. When more than one (1) unit is furnished water through a single meter, the bill therefore shall be furnished only to the person upon whose application the water was furnished. All bills shall be made out and mailed as early as practicable after the close of the month covered by the bills. (Ord. of 10/8/79)

Section 5-1021 Partial payments of bills.

Partial payments toward a bill covering recycling, sewage and water services are to be applied among these services in the following order:

- (1) Recycling services;
- (2) Sewage services; and
- (3) Water services. (Ord. of (9/8/92)

Section 5-1022 Water conservation practices.

(a) Purpose. It is the purpose and intent of this section to maintain and protect the valuable but limited water resources available to the town for redistribution for essential community and business water uses during droughts and other emergencies that affect the supply of water from the Catawba River and its system of reservoirs. This section seeks to achieve that purpose by providing for the issuance of an official water shortage declaration and the implementation of water conservation controls during the time when a declaration is in effect. It is intended that the declaration and implementation of water conservation controls shall be consistent throughout the cities, counties and towns having water intakes on the Catawba River, its tributaries and its series of reservoirs. Further, this section is intended to implement the low inflow protocol issued by the Catawba Wateree Drought Management Advisory Group as defined below. This section shall therefore be liberally construed to effect such purpose and intent and shall apply to the entire distribution system of the town.

(b) Definitions.

(1) Drought Management Advisory Group ("CW-DMAG" or "DMAG") means the team of owners of large water intakes in the Catawba River Basin, state agencies and Duke Power Company LLC tasked with formulating a basin wide response to low inflow conditions as further defined in the low inflow protocol.

(2) Low inflow protocol ("LIP") means the set of procedures for reductions in water use during periods of drought or other emergency conditions issued by the CW-DMAG in written form, as amended from time to time. The LIP is incorporated herein by reference and the current copy of the LIP shall be maintained and available for inspection in the office of the Clerk of the town.

(3) Stage refers to the level of severity of the water shortage emergency and the water conservation measures implemented during the emergency. Under the current LIP, there are stages 0, 1, 2, 3, and 4.

(4) Water Shortage Management Plan means a plan prepared by the Water Superintendent for the town implementing the low inflow protocol by indicating in greater

details the measures that will be taken by the town in order to conserve water during an emergency. The water shortage management plan, as amended, is incorporated herein by reference.

(c) Imposition of mandatory water conservation controls. The Town Manager is authorized to impose mandatory water conservation controls as authorized by this section on the use of water obtained either directly or indirectly from the publicly owned water treatment works ("water system") by declaring a water shortage. In declaring a water shortage, the Town Manager shall, among other things, consider the following:

- (1) Recommendations from the Water Superintendent.
- (2) Available pressures at various points throughout the water system.
- (3) The ability to maintain adequate storage levels in storage tanks throughout the water system.
- (4) Issues related to the quantity as well as the quality of the water in the near future.
- (5) Downstream conditions including water shortages in public water suppliers downstream.
- (6) Any declaration of drought stages by the CW-DMAG as further defined in the LIP based upon preset trigger points.
- (7) Declaration of drought stages by the North Carolina Department of Environment and Natural Resources.
- (8) Any other factors set out in the Water Shortage Management Plan issued by the Water Superintendent pursuant to subsection (d), or the LIP.

(d) Water shortage management plan. The Water Superintendent for the town (the "Water Superintendent") with the approval of the Town Manager is authorized to adopt and issue a water shortage management plan which shall be consistent with the LIP and will further implement and enforce the provisions of this section, including the water conservation measures applicable to the stage then in effect under the declaration.

(e) Procedure for issuance of water shortage declaration. The Town Manager may issue a water shortage declaration (sometimes referred to as the "declaration") by signing a written notice of water shortage declaration. The declaration will take effect on the date and time specified in the notice. A water shortage declaration, or any amendments thereto, may be issued for the entire water system or for any designated portion thereof. Upon issuance, a water shortage declaration shall remain in effect until terminated by the Town Manager, unless sooner terminated, suspended or amended by the Town Council.

(1) As conditions warrant, a water shortage declaration may be amended, suspended, delayed or terminated at any time by the Town Manager or may expire without further action by the Town Manager in accordance with the terms of the declaration.

(2) A water shortage declaration shall, among other things, include the date the declaration is to take effect, the expiration date, if any, a brief statement of the facts supporting the issuance of the declaration, the stage of water conservation being imposed, a description of the areas affected by the declaration and a brief summary of any requirements imposed by the particular stage of water conservation controls. The method of enforcement of this section, the water shortage management plan, the LIP and/or the declaration may, but need not be, described.

(f) Stages of water conservation. Those stages described in the most recent LIP may be implemented and enforced by the issuance of the water shortage declaration, either singularly, in sequence or in any combination of stages.

(g) Termination and/or suspension of water service. In order to comply with the water shortage declaration, the LIP, the water shortage management plan or this section, the Water Superintendent, with the approval of the Town Manager, may reduce, establish limits and limit or terminate service to customers and users connected to the water system, including bulk customers for the duration of the water emergency except public schools satisfying compulsory education requirements of the state; public facilities for police, sheriff, fire or other emergency medical services; hospitals; and fire departments during the time such department is actively fighting a fire, except by specific direction of the Town Council.

(1) Further, during stages requiring mandatory water conservation, the Water Superintendent, with the approval of the Town Manager, may suspend or direct the appropriate town official to suspend the issuance of zoning permits and other approvals that involve waterline connections or extensions or any upgrade in capacity for water usage for the duration of the water emergency.

(2) Any plan to ration, limit, establish limitations on the quantity of water a specific user is authorized to consume, suspend or terminate service must be approved by the Town Council; however, the termination of water service to a particular customer for specific violation of the water shortage management plan, the LIP or the declaration or for terminations under normal town policy regarding the payment of user fees shall not require Town Council approval.

(3) During the time that a water shortage declaration is in effect, it shall be unlawful for any customer, user or owner of a plumbing system taking or receiving water from the water system to fail to repair a leak in such plumbing system within a reasonable period of time while the water shortage declaration is in effect. Any customer, user or owner who fails to repair a leak in such plumbing system within five (5) calendar days after notice to do so from the Water Department shall be subject to a civil penalty in the amount of one hundred dollars (\$100), to be collected as hereinafter provided, and/or the termination of service or both.

(h) Variances. The Water Superintendent is authorized to issue a variance under limited circumstances permitting any user or customer satisfying the requirements of this subsection to use water for a purpose that would otherwise be prohibited by the water conservation controls then in effect. In giving consideration to and issuing a variance, the Water Superintendent shall take into consideration the stage of water conservation, the type of mandatory limitations required for that stage, the anticipated quantity of water to be used and any other factors required by the water shortage management plan and/or the LIP. After giving consideration to the specified factors, variances may, but are not required to, be granted in the following circumstances:

(1) A customer with a new lawn and/or landscaped area installed within thirty (30) days of the application for a variance, but before mandatory conservation controls were imposed.

(2) A public or volunteer fire department during any training exercise using water from the water system under such circumstances when training is reasonably necessary to maintain effective ~~fire fighting~~firefighting capabilities.

(3) A customer or user undertaking any activity required by law.

(4) Any customer or user proposing to eliminate or reduce unsanitary conditions that pose a substantial risk of injury or disease.

(5) In granting a variance, the Water Superintendent may impose such additional conditions and/or restrictions as are reasonably necessary to minimize the effect the variance shall have on the mandatory water conservation controls.

(6) Any variance granted pursuant to this subsection shall contain an expiration date at which time the variance shall no longer apply. In the event the variance is granted and limited to a particular stage of water conservation control, then such variance shall automatically expire on the effective date and time to coincide with the expiration of the particular stage.

(7) Any person or entity receiving a variance granted under this subsection that violates the terms of the variance shall be subject to a civil penalty under subsection (i) below and is also subject to having the granted variance revoked.

(i) Enforcement.

(1) The use of water from the water system in violation of any mandatory water conservation control imposed pursuant to this section, the LIP, the water shortage management plan or the term of any variance issued pursuant to subsection (h) is unlawful. Further, the refusal or failure of a customer or other person acting on the customer's behalf to cease immediately a violation of a water conservation control, after being directed to do so by a person authorized to enforce the provisions of this article, is unlawful. Each customer is responsible for any use of water that passes through the service connection associated with the customer's account or otherwise passes through the customer's private water system.

(2) Any customer who violates or permits the violation of any mandatory water conservation control imposed pursuant to the LIP, the declaration, or the water shortage management plan then in effect, shall be subject to a civil penalty according to the following schedule of penalties:

STAGE 2 CIVIL PENALTIES:

First Offense \$ 50 Second Offense \$100 Third and subsequent offenses \$200

STAGE 3 CIVIL PENALTIES:

First Offense \$100 Second Offense \$200 Third and subsequent offenses \$300

(3) Any customer who violates or permits the violation of any variance issued pursuant to subsection (h) shall be subject to a civil penalty of one hundred dollars (\$100).

(4) Any customer or other person acting on behalf of the customer who refuses or otherwise fails to cease immediately a violation of a water conservation control after being directed to do so by a person authorized to enforce the provisions of this section shall be subject to a civil penalty equal to twice the amount of the civil penalty applicable to the violation which such customer or person was directed to cease.

(5) The violation of any water conservation control or provision of this section may be enforced by all remedies authorized by law for noncompliance with municipal ordinances, including the assessment of a civil penalty, an action for injunction, order of abatement or other equitable relief.

(6) Each civil penalty assessed against a customer pursuant to this article shall be added to the customer's water bill and shall be paid in the same manner as set forth in this chapter

for the payment of water bills. Failure to pay all or any portion of a water bill, including any civil penalty assessed pursuant to this section, in a timely manner may result in the termination of water service in accordance with normal town policy.

(7) Except as provided in this subsection, each day that a violation of a mandatory water conservation control occurs shall be considered to be a separate violation.

a. If a customer or other person acting on behalf of the customer refuses or otherwise fails to cease immediately a violation of a water conservation control after being directed to do so by a person authorized to enforce the provisions of this section, such failure shall constitute a separate violation; and

b. After receiving a notice of violating a water conservation control and ceasing such violation, a customer who resumes the violation of said water conservation control on the same day shall be guilty of a separate violation.

(8) Any town employee or person designated by the Town Manager shall be authorized to enforce the provisions of this article.

(j) Applicability to combined distribution system. This section, and the low inflow protocol and water shortage management plan incorporated into this section, as amended and/or superseded shall apply to and be deemed a condition of service for each municipal customer, any water corporation, any other unit of government purchasing water from the town or any other user supplied water by the town, whether inside or outside the municipal limits and as a condition of continued service or the contracts under which such service is provided to any such customer, this section is binding upon and enforceable against such customer.

(Ord. of 9/4/07)

(b) Within 30 days of receipt of the application for a building sewer and for a connection permit, the Burke County Inspection Office shall advise the applicant as to whether sewer service will be available. If sewer service will not be available, the full fee filed with the application will be refunded. If sewer service is to be available, the applicant or owner may proceed with the construction of the building sewer in accordance with the procedures defined herein.

Section 5-1023 Cross connection control, backflow prevention assemblies required, program established.

(a) Application, purpose, authorization. This section applies to all persons who use, or connect in any way to the Town of Valdese public water system. The purpose of this section is to protect the health and safety of the public by protecting the public water system from contaminants "backflowing" into the public water system from private water systems. This section:

(1) Requires the installation of backflow prevention assemblies to prevent contaminants from "backflowing" or siphoning through uncontrolled cross connections into the public water system; and

(2) Establishes a backflow prevention program.

(b) Definitions. As used in this section, the following definitions apply:

Backflow prevention assembly or BPA. An approved device used to prevent backflow into the public water system from a consumer's water service connection. The type of BPA

required by this section depends on the degree of contamination hazard. An "approved" BPA is one that has been approved by the American Society of Sanitary Engineers (ASSE) or the American Water Works Association (AWWA), or USC, or the Foundation for Cross Connection Control and Hydraulic Research.

Certified backflow prevention assembly technician or technician. Any person who is certified by the State of North Carolina to install, test, repair, overhaul or maintain approved backflow prevention assemblies.

Consumer. Any customer of the town's public water system, or any person, firm, or entity using or receiving water from the town's public water system or owning or possessing property or facilities that receive water from or connect to the town's public water system.

Contamination hazard. An existing or potential cross connection that presents the risk of impairment to the quality of the water in the public water system and creates a potential or actual hazard to public health through the introduction of hazardous or toxic substances or waterborne health hazards in the form of physical or chemical contaminants or biological organisms and pathogens.

Cross connection. Any unprotected actual or potential connection or structural arrangement between the town's public water system and any other pipe, conduit, source or system through which it is possible to introduce any contamination into the intended potable water with which the system is supplied. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, and other temporary or permanent devices or arrangements through which or because of which backflow can or may occur are considered to be cross connections.

Degree of hazard. Whether a hazard is a moderate hazard or a severe hazard as determined by the town from the evaluation of conditions within a private water system and the use to which a property connected to the public system is put. A severe hazard is an actual or potential threat of contamination that presents an imminent danger to the public health with consequences of serious injury. A moderate hazard is one that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable or other undesirable alterations to the drinking water supply.

Health hazard. An actual or potential threat of contamination of a physical, chemical, biological, pathogenic, or toxic nature to the public or private water system to such a degree or intensity that there would be a danger to health. Examples of waterborne hazards include, but are not limited to:

- a. Physical: Radioisotopes/radionuclides;
- b. Chemical: Lead, mercury and other heavy metals, organic compounds, other toxins and hazardous substances; and
- c. Biological: Microorganisms and pathogens such as cryptosporidium, typhoid, cholera and E. Coli.

Imminent hazard. A hazard situation that is likely to cause an immediate threat to human life, an immediate threat of serious physical injury, an immediate threat of serious adverse health effects, or a serious risk of irreparable damage to the environment if no immediate action is taken.

Non-health hazard. A hazard that, if introduced into the public water supply system, could be a nuisance to water users, but would not adversely affect human health.

Private water system. Part of a water service connection to the town's public water system that is located on the consumer's side of the town's water meter. A private water system may be a water service line to a single premises or structure, or it may be a privately owned and maintained water distribution system that serves more than one structure or premises. For the purpose of this section, once water from the town's public water system passes through the meter to the consumer's side, that water is considered part of the private water system.

Public water system. The Town of Valdese water system and includes all of the town's system for the provision to the public of potable water for human consumption through pipes or other constructed conveyances and includes:

a. Any collection, treatment, storage, or distribution facility and all appurtenances to those facilities under control of the town and used primarily in connection with the town's water system; and

b. Any collection, treatment, storage, or distribution facility and all appurtenances to those facilities not under the control of the town that is used primarily in connection with the town's water system.

(c) New unprotected cross-connections prohibited, existing cross-connections to be protected. All consumers and any other person or entity receiving water from the town's public water system shall be in violation of this section if they fail to comply with any of the following:

(1) New water service connections. No new residential or new nonresidential water service connections to the public water system shall be made unless equipped with an approved backflow prevention assembly. The BPA shall be tested and properly functioning as prescribed herein prior to the issuance of a certificate of occupancy for any building. All new nonresidential construction plans and specifications shall be provided to the town for review to determine the hazard level to the town's public water system.

(2) Existing water service connections. An approved backflow prevention assembly shall be installed on all existing cross connections to the town's public water system upon notification of the need for installation by the town. Upon determining that a backflow prevention assembly is required to be installed on an existing water service connection, the town will notify the consumer in writing of:

a. The requirement for installation;

b. The hazard level that has been established for that consumer by the town based upon the use of their premises;

c. The type of approved backflow prevention assembly required; and

d. The date by which the backflow prevention assembly must be installed, tested and approved. The consumer will have a minimum of 60 calendar days and a maximum of 180 calendar days within which to install, test and have the BPA approved after notice is given.

(d) Contamination prohibited. No consumer shall cause or allow any contamination of the town's public water system through uncontrolled backflow or backsiphonage from or through the consumer's private water system.

(e) No cross connections. It shall be unlawful to have plumbing cross-connected or installed so that water from the town's public water system and water from or in any private water system may in any way become intermingled.

(f) Compliance. No private water system shall be connected in any manner to the town's public water system nor may any service connection be made or maintained to the town's public water system unless the requirements of this chapter have been satisfied.

(g) Approved BPAs and installations required. Only an approved backflow prevention assembly shall be installed to meet the requirements of this section. Any backflow prevention assembly that is installed that is not an approved BPA, or any installation of any backflow prevention assembly that is not installed in accordance with the provisions hereof shall be a violation of this section.

(h) Notification of change in use of property. Within ten calendar days of the date of any change in use of any nonresidential property connected to the town's public water system, the consumer shall notify the town so that the town can reassess the hazard level of that use.

(i) Certification and testing program.

(1) Installation, maintenance, testing, and repair of BPAs shall be done only by a certified backflow prevention assembly technician. Consumers shall have a technician test the BPA for proper operation and that technician shall certify the results in writing to the town.

(2) Any consumer or other person who removes or repairs any cross-connection condition shall notify the town for the purpose of securing an inspection or re-inspection by the town.

(3) All backflow prevention assemblies required by this section shall be installed in accordance with the manufacturer's instructions.

(4) All backflow prevention assemblies required by this section shall be installed and maintained on the consumer's premises as part of the consumer's water system.

(5) Ownership, installation, testing and maintenance of a backflow prevention assembly and all costs associated therewith shall be the responsibility of the consumer.

(6) Each backflow prevention assembly required under this section must be accessible by the town.

(7) Any bypass around a backflow prevention assembly, including when the BPA is in need of testing, repair or replacement, is prohibited. When it is not possible to interrupt water service, the consumer shall provide for the parallel installation of an approved backflow prevention assembly.

(8) Backflow prevention assemblies with test ports or test cocks shall not be installed below ground.

(j) Testing and repair of backflow prevention assemblies.

(1) Testing/certification. A certified backflow prevention assembly technician shall conduct testing of backflow prevention assemblies at the consumer's expense. Tests shall be conducted upon installation, and annually thereafter, with a record of all testing and repairs retained by the consumer. Each consumer shall send a copy of the report, signed by the certified backflow prevention assembly technician, for each test or repair to the town within 30 days after the completion of each test or repair. Such records in the form approved by the town must be maintained by the consumer for a period of three years.

(2) Repairs. Any time that repairs to a backflow prevention assembly are deemed necessary, whether through annual testing or routine inspection by the consumer or by the town, these repairs must be completed within a time specified below, in accordance with the hazard level.

- a. Health hazard facilities: Within 14 days of discovery.
- b. Non-health hazard facilities: Within 28 days of discovery.

(3) Equipment. All certified backflow prevention assembly technicians must obtain and employ backflow prevention assembly test equipment that has been approved by the town. All test equipment shall be registered with the town and shall be calibrated annually, and certified to the town as to such calibration, employing a calibration method acceptable to the town.

(4) Records. It is unlawful for any consumer or certified backflow prevention assembly technician to submit any record to the town that is false or fraudulent in any material respect. It is unlawful for any consumer or certified backflow prevention assembly technician to fail to submit any record that is required by this section. Such violations may result in any of the enforcement actions outlined in paragraph (m) of this section.

(k) Protection of the public water system during bulk water sales. No bulk water may be taken except through a metered assembly provided by the town that includes a reduced pressure backflow prevention assembly. In addition, any truck, tank, or receiving vessel that is directly or indirectly connected to any pipe, hose, or outlet from the town's public water system must be equipped with an approved, permanently installed, air gap designed to create a minimum of four inches separation between the receiving tank or vessel and the connection to the town's public water system.

(l) Backflow prevention assembly protection. Any backflow prevention assembly that might be subjected to pressure surges or abnormally high pressures shall be protected against possible damage by a device approved by the town, such as a water hammer arrestor or a pressure reducing valve.

(m) Violations. Any consumer or other person who fails to comply with any provision of this section, or who fails to comply with any notice, citation, or order made hereunder, or who shall install or alter a private water system in violation of this section or any detailed statement of specifications or plans submitted and approved hereunder, or any certificate or permit issued hereunder, or who shall fail to comply with such a notice, citation, or order within the time fixed therein, or who shall submit a false or fraudulent report, or who shall fail to submit a report shall be in violation of this section for each such occurrence or noncompliance and shall be subject to enforcement as provided in this section. The remedies provided for violations of this section, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law and may be exercised in any order.

(1) The Public Works Director or designee shall serve a written notice of violation to any person who violates this section. Such notice shall be personally delivered, or delivered by certified mail, return receipt requested. A copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, and the regular mail is not returned by the post office within ten days after the mailing.

(2) Such notice of violation shall set forth the violation and the time period within which the violation must be corrected. The violation must be corrected within the time period specified in the notice of violation. If the town determines that the violation has created or contributed to the existence of an imminent health hazard, the consumer may be required to correct the violation immediately. If the violation is cured or corrected within the time period specified in the notice of violation, then the town shall take no further action against the person.

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(3) Any person who, after being given a notice of violation pursuant to division (m)(1) above does not comply within the time period set forth in the notice of violation, and who continues such violation, shall be subject to the penalties and remedies set forth in paragraph (m)(4). The following citation procedure shall be used:

a. Citation for violation. The Public Works Director or designee shall serve a written citation on the alleged violator by any of the methods specified in paragraph (m)(1).

b. Content of citation. The citation shall describe the nature of the violation and any actions that the alleged violator must take to cure or correct the violation, and shall specify the amount of any civil penalty levied against the alleged violator.

c. Corrective action required. The civil penalty shall be paid and the violation shall be cured or corrected, within 72 hours of receipt of the citation by the alleged violator, or such other time period, not to exceed 30 days, as the citation may specify.

d. Action for recovery of penalty. If payment is not made and the violation is not cured or corrected within the time specified in the citation, then the town may recover the civil penalty together with all costs by filing one or more civil actions in the name of the town in the nature of a suit to collect a debt. The town attorney is hereby authorized to file suit on behalf of the town to collect any civil penalties.

e. Suspension or termination of water service; revocation of permits. Water service may be suspended or terminated to a consumer, and/or applicable permits revoked, if the consumer fails to correct a violation in a timely manner. Suspension or termination of water service or revocation of permits will be without prejudice to the town's ability to assert any other remedy available to the town against the consumer or any other person responsible for the violation.

(4) Violations of this Section 5-1023 shall subject the offender to the following civil penalties:

Description	Penalty	Frequency
Unprotected cross connection - wholesale customers or Unprotected cross connection - public water system not under the control of the town	\$1,000	With first citation and thereafter for each 30-day period or part thereof in which the violation persists
Unprotected cross connection - non-wholesale customers	\$500	With first citation and thereafter for each 30-day period or part thereof in which the violation persists
Falsifying records	\$500	Per occurrence
Failing to maintain and test residential irrigation backflow prevention assemblies	\$500	With first citation and thereafter for each 30-day period or part thereof in which the violation persists
Any other violation of this section	\$500	Per occurrence

(5) The town may increase any civil penalty assessed by 50% of the maximum civil penalty associated with the violation for a second violation of the same provision within a 24-month period. The town may increase any civil penalty by doubling the amount of the penalty for a third violation of the same provision within a 24-month period. Water service may be terminated after a third violation of the same provision within a four-month period.

(6) Any person violating any provision of this section shall pay to the town all expenses incurred by the town in repairing any damage to the public water system caused in whole or in part by such violation and any expense incurred by the town in investigating such violation. All such expenses shall be in addition to the civil penalty assessed with the violation.

(7) The application of civil penalties shall not prevent the enforced correction or removal of any prohibited condition.

(n) Administration of program. The Public Works Director for the town, or designee, shall administer this program. (Ord. of / /)

CHAPTER 2 Sewage Collection and Disposal

- Section 5-2001 Definitions.
- Section 5-2002 Use of public sewers required.
- Section 5-2003 Unlawful to construct or maintain privies.
- Section 5-2004 Owners required to connect to system.
- Section 5-2005 Private wastewater disposal.
- Section 5-2006 Same; permit required.
- Section 5-2007 Permit effective upon completion of work.
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- Section 5-2009 Additional authority of state and county.
- Section 5-2010 When direct connections required.
- Section 5-2011 Alteration of system requires permit.
- Section 5-2012 Classes of sewer permits.
- Section 5-2013 Costs to be borne by owner.
- Section 5-2014 Independent sewer for each building.
- Section 5-2015 Sewer to conform to code requirements.
- Section 5-2016 Grades for sewers.
- Section 5-2017 Standards of connection.
- Section 5-2018 Notice to inspection office.
- Section 5-2019 Excavations to be guarded and public property restored.
- Section 5-2020 Inspection of excavation.
- Section 5-2021 Substances not to be discharged.
- Section 5-2022 Contaminants.
- Section 5-2023 Interceptors.
- Section 5-2024 Same; owners to maintain.
- Section 5-2025 Certain discharges subject to surcharge.
- Section 5-2026 Preliminary treatment facilities; owner to provide and maintain.
- Section 5-2027 When manholes required.
- Section 5-2028 Test standards.
- Section 5-2029 Special arrangements.
- Section 5-2030 Protection from damage.
- Section 5-2031 Powers and authority of inspectors.
- Section 5-2032 Penalties.

Section 5-2001 Definitions.

Unless the content specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) Applicant shall mean the owner or his duly authorized agent acting on his behalf in solicitation of a permit or permission to act as set forth herein.

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(2) A.S.T.M. shall mean the American Society of Testing Materials.

(3) BOD (Denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

(4) Building drain shall mean the part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building wall.

(5) Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

(6) Domestic sewage shall mean wastewater derived principally from dwellings, businesses, and institutions.

(7) Garbage shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(8) Industrial or commercial or residential shall mean classifications which bear upon applications, rates, fees or other considerations: such classification shall be determined solely by the town.

(9) Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(10) Inflow shall mean the water discharged into a sewer system, including service connections from such sources, as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

(11) Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body or surface or groundwater.

(12) Owner shall mean the person having ownership of building, sewer, proposed building sewer, or real property from which sewage is anticipated to be or discharged.

(13) Person shall mean an individual, firm, company, association, society, corporation, or group.

(14) pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(15) Properly shredded garbage shall mean the wastes from the preparation, cooking, and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

(16) Public sewer shall mean a sewer owned by the town.

(17) Sanitary sewage shall mean wastewater discharging from the sanitary conveniences of residences, businesses, institutions, and industrial establishments.

(18) Sanitary sewer shall mean a sewer which carries wastewater and to which storm surface and ground waters are not intentionally admitted.

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(19) Sewerage system shall mean all facilities for collecting, pumping, treating, and disposing of wastewater.

(20) Sewer shall mean a pipe or conduit for carrying wastewater.

(21) Shall is mandatory; may is permissive.

(22) Storm drain or storm sewer shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(23) Suspended solids shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering, expressed in milligrams per liter.

(24) Town shall mean the Town of Valdese, Burke County, North Carolina.

(25) Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(26) W.P.C.F. shall mean the Water Pollution Control Federation.

(27) ~~Wastewater~~ Wastewater shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

(28) Wastewater treatment plant shall mean any arrangement of devices and structures used for treating wastewater.

Section 5-2002 Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the town, or in any area under the jurisdiction of the town, any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within or under the jurisdiction of the town, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

Section 5-2003 Unlawful to construct or maintain privies.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

Section 5-2004 Owners required to connect to system.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the corporate limits of the town, and whose property line is located within 200 feet from a public sanitary sewer of the town, shall do one of the following:

(1) at his expense to install suitable toilet facilities therein, and to connect the facilities to the proper sewer in accordance with the provisions of this chapter, within 90 days after the date of official notice to do so; or

(2) shall pay the administrative billing charge which would be chargeable against such parties if they were tapped on the sewer line and have not.

Section 5-2005 Private wastewater disposal.

Where a public sanitary sewer is not available under the provisions of section 5-2004, the building sewer shall be connected to a private wastewater disposal system, complying with North Carolina Department of Human Resources, North Carolina Division of Environmental Management, and Burke County Health Department requirements.

Section 5-2006 Same; permit required.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit from the Burke County Inspection Office. The application for such permit shall be made on a form furnished by the town. The permit application shall be supplemented by any plans, specifications, and other information as is deemed necessary by the town. A permit and inspection fee shall be paid to the Burke County Inspection Office at the time the application is filed.

Section 5-2007 Permit effective upon completion of work.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Burke County Inspection Office. Inspection shall be allowed by the owner at any stage of construction and, in any event, the applicant for the permit shall notify the Burke County Inspection Office when the work is ready for final inspection, and before any underground portions are covered.

Section 5-2008 Facilities to be operated in sanitary manner.

No septic tank or cesspool shall be permitted to discharge to any natural outlet. The owner shall operate and maintain the private wastewater disposal system in a sanitary manner at all times, at no expense to the town.

Section 5-2009 Additional authority of state and county.

No statement contained in this chapter shall be construed to interfere with the authority and regulations of the North Carolina Department of Human Resources, the North Carolina Division of Environmental Management, or the Burke County Health Department.

Section 5-2010 When direct connections required.

Upon notification by the town that a public sewer is available, the owner shall apply for a connection permit within 30 days. The owner shall have the connection completed and approved within 90 days of the notification. The private wastewater disposal system shall be cleaned of sludge and filled with gravel.

Section 5-2011 Alteration of system requires permit.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Burke County Building Inspection Office.

Section 5-2012 Classes of sewer permits.

(a) There shall be two (2) classes of building sewer permits: (I) for residential and commercial service and (2) for service to establishments producing industrial wastewaters. In either case, the owner or his agent shall make application for connection on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent to the judgment of the town. A permit and inspection fee for a residential, commercial or industrial building sewer permit shall be paid to the Burke County Building Inspection Office at the time the application is filed.

(b) Within 30 days of receipt of the application for a building sewer and for a connection permit, the Burke County Inspection Office shall advise the applicant as to whether sewer service will be available. If sewer service will not be available, the full fee filed with the application will be refunded. If sewer service is to be available, the applicant or owner may proceed with the construction of the building sewer in accordance with the procedures defined herein.

Section 5-2013 Costs to be borne by owner.

All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Section 5-2014 Independent sewer for each building.

A separate and independent building sewer shall be provided for every building. Old building sewers may be used in connection with new buildings only when they are found acceptable by the Burke County Building Inspection Office.

Section 5-2015 Sewer to conform to code requirements.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in the North Carolina State Building Code, Volume II, Plumbing, latest edition, and appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

Section 5-2016 Grades for sewers.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Section 5-2017 Standard of connection.

(a) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or the procedures set forth in the North Carolina State Building Code, Volume II, Plumbing, latest edition, and appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and water- tight. Any deviation from the prescribed procedures and materials must be approved by the town before installation.

(b) The maximum allowable infiltration allowance for new service lines in 200 gallons per day/inch- diameter/mile. The town may require repairs or replacement of the existing service lines in order to meet the same infiltration allowance requirements as specified for new service lines and connections. In such cases, all work shall be performed by or under the supervision of a licensed plumber and in accordance with the applicable plumbing code and at the expense of the owner/user. The town may require or replace the existing connections at the expense of the owner/user or may permit the owner to have the repairs made under the town's supervision by a licensed plumber at the expense of the owner/user.

(c) Sewer service lines extended to the main shall be maintained and kept free from stoppage by the owner/user to the owner's property line. Relocation or replacement of any service line connection for individual improvement or development shall be made by the town at the expense of the owner/user. (Res. of 6-26-95)

Section 5-2018 Notice to inspection office.

The applicant for the building sewer permit shall notify the Burke County Building Inspection Office when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of a representative from the Burke County Building Inspection Office.

Section 5-2019 Excavations to be guarded and public property restored.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.

Section 5-2020 Inspection of excavation.

When trenches are opened for the laying of building sewers, such trenches shall be inspected by the Burke County Inspection Office before the trenches are filled, and the plumber performing such work shall notify the Burke County Inspection Office when the laying of building sewer is completed. The filling of a trench before inspection is made will subject the owner, to whom a permit is issued, to a penalty for each offense. Payment of the penalty shall not constitute acceptance. The work shall be uncovered for actual inspection at the owner's expense.

Section 5-2021 Substances not to be discharged.

No person shall discharge or cause to be discharged any storm water, inflow, surface water, roof runoff, or subsurface drainage to any sanitary sewer.

Section 5-2022 Reserved.
(Res. of 6-26-95)

Section 5-2023 Interceptors.

(a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the town they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful substances, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the town, and shall be so located as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

Section 5-2024 Same; owners to maintain.

When installed all grease, oil, and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the town at any time.

Section 5-2025 Reserved.
(Res. of 6-26-95)

Section 5-2026 Reserved.
(Res. of 6-26-95)

Section 5-2027 When manholes required.

When required by the town, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be constructed in accordance with approved plans. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 5-2028 Reserved.
(Res. of 6-26-95)

Section 5-2029 Special arrangements.

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an

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industrial waste of unusual character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.

Section 5-2030 Protection from damage.

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the town sewerage system. Any person violating this provision shall be subject to the penalties prescribed by the General Statutes of the State of North Carolina.

Section 5-2031 Reserved.

(Res. of 6-26-95)

Section 5-2032 Penalties.

(a) Any person found to be violating any provision of this chapter except for provisions of section 5-2030 shall be served by the town with written notice stating the nature of the violation and providing a time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) ~~Any person who shall continue any violation beyond the established time limit shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with the General Statutes of North Carolina. Each day in which any such violation shall continue shall be deemed a separate offense. A continued violation beyond the established time limit specified in the written notice served in Section 5-2032(a) shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.~~

(c) Any person violating any of the provisions of this chapter shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.

CHAPTER 3
Sewer Use

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ARTICLE A
General Provisions

Section 5-3001 Purpose and policy.

(a) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the Town of Valdes, hereafter referred to as the Town, and enables the Town to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403).

(b) The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system.

(3) To promote reuse and recycling of industrial wastewater and sludges from the municipal system.

(4) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment and the general public.

(5) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system.

(6) To ensure that the town complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.

(c) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through the enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(d) This chapter shall apply to all users of the municipal wastewater system as authorized by N.C.G.S. 160A-312. The Town shall designate an administrator of the Publicly Owned Treatment Works or POTW and pretreatment program hereafter referred to as the POTW Director. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to imposed upon the POTW Director may be delegated by the POTW Director to other Town personnel. By discharging wastewater into the municipal wastewater system, industrial users located within or outside the Town limits agree to comply with the terms and conditions established in this chapter, as well as with any permits, enforcement actions, or orders issued hereunder. This includes all industrial users discharging in the wastewater system owned by any Satellite POTW. (Ord. of 12/6/82; Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3002 Definitions and abbreviations.

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

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Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.

Approval authority. The Director of the Division of Water Quality of the North Carolina Department of Environment and Natural Resources.

Authorized representative of the industrial user may be:

(1) A principle executive officer of at least the level of vice president, if the industrial user is a corporation.

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.

(4) A director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee, if the industrial user is a federal, state or local facility.

(5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the POTW director prior to or together with any reports to be signed by an authorized representative.

Biochemical oxygen demand (BOD). The quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° degrees centigrade, usually expressed as a concentration (e.g. mg/l).

Building sewer. A sewer conveying wastewater from the premises of a user to the POTW.

Bypass. The intentional diversion of wastestreams from any portion of a user’s treatment facility.

Categorical pretreatment standards. Regulations promulgated by the State of North Carolina or local agencies or by the EPA in accordance with Section 307(b) and (1) of the Act and designated as national categorical pretreatment standards or pretreatment standard.

Control Authority. Refers to the POTW organization if the POTW organization’s Pretreatment Program approval has not been withdrawn.

Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

Grab sample. A sample which is taken from a wastestream on a one-time basis, without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Hauled wastewater. Any waste transported by a moving vehicle, such as a septic tank hauler, to a disposal site.

Holding tank waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

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Indirect discharge or discharge. The discharge or the introduction of waste from any nondomestic source regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user or user. Any user of a publicly owned treatment works identified in the U.S. "Standard Industrial Classification Manual, 1972," or latest revision under the following divisions:

Division A - Agriculture, Forestry, and Fishing.

Division B - Mining.

Division D - Manufacturing.

Division E - Transportation, Communication, Electric, Gas, and Sanitary Services.

Division I - Services.

Division J - Public Administration.

Division K - Nonclassifiable establishments.

Interference. The inhibition or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the Control Authority's (and/or POTW's, if different from the Control Authority) NPDES, collection system or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. § 6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

National Pollutant Discharge Elimination System, or NPDES, Permit. A permit issued pursuant to section 402 of the Act (33 U.S.C. §1342), or pursuant to N.C.G.S. 143-215.1 by the state under delegation from EPA.

National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 5-3011 of this chapter and are developed under the authority of 307(b) of the Act and 40 CFR, section 403.5.

New source.

(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act which will be applicable

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to such source if such standards are thereafter promulgated in accordance with section 307(c), provided that:

(A) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(B) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(C) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.

(A) For purposes of this definition, construction of a new source has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program;
2. Any placement, assembly, or installation of facilities or equipment; or
3. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-discharge permit. A permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to the surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

Pass through. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the Control Authority's (and/or POTW's if different from the Control Authority) NPDES, collection system or non-discharge permit, or a downstream water quality standard even if not included in the permit.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant. Any “waste” as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor).

POTW Director. The Town Administrator designated with the responsibility for the pretreatment program and enforcement of the sewer use ordinance.

POTW treatment plant. That portion of the POTW designed to provide treatment to wastewater.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment program. The program for the control of pollutants introduced into the POTW from non- domestic sources which was developed by the town in compliance with 40 CFR 403.8 and approved by the approval authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standards. Prohibited discharge standards, categorical standards, or local limit which applies to an industrial user.

Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. § 1292) which is owned in this instance by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the Town’s POTW.

Sewage. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Severe property damage. Substantial physical damage to property, damage to the user’s treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a

bypass. Severe property damage does not mean economic loss caused by delays in production.

Significant industrial user or SIU. An industrial user that discharges wastewater into a publicly owned treatment works and that:

(1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary sewer, noncontact cooling water and boiler blowdown wastewaters; or

(2) Contributes process wastewater which makes up five percent (5%) or more of the NPDES or Non- discharge permitted flow limit or five percent (5%) or more of the maximum allowable headworks loading of the POTW treatment plant for any POTW pollutant of concern; or

(3) Is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR Chapter I, Subchapter N, parts 405-471; or

(4) Is found by the Town, the Division of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

Significant Noncompliance or SNC. The status of noncompliance of a Significant Industrial User when one (1) or more of the following criteria are met. Additionally, any Industrial User which meets the criteria in Subparagraph (b)(35), Parts (C), (D), or (H) shall also be in SNC.

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter (not including flow) during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(1).

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(1) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oils and grease, 1.2 for all other pollutants (except flow and pH).

(C) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference, pass through (including endangering the health of the POTW personnel or the general public);

(D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under 40 CFR Part 403.8(f)(1)(vi)(B) and Section 5-3091(e) of this SUO to halt or prevent such discharge;

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(2) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within forty-five (45) days from the due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load or discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards Section 5-3011 of this chapter.

Standard industrial classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Storm water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent. The person designated by the town to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities lack of preventive maintenance, or careless or improper operation.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Wastewater permit. As set forth in Section 5-3042 of this chapter.

Waters of the state. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(b) This chapter is gender neutral and the masculine gender shall include the feminine and vice-versa. Shall is mandatory; may is permissive or discretionary. The use of the

singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

The following abbreviations when used in this chapter shall have the designated meanings:

- (1) BOD - Biochemical oxygen demand.
- (2) CFR - Code of federal regulations.
- (3) COD - Chemical oxygen demand.
- (4) EPA - Environmental protection agency.
- (5) gpd - Gallons per day.
- (6) l. - Liter.
- (7) mg - Milligrams.
- (8) mg/l. - Milligrams per liter.
- (9) N.C.A.C. - North Carolina Administrative Code.
- (10) N.C.G.S. - North Carolina General Statutes.
- (11) NPDES - National Pollution Discharge Elimination System.
- (12) O & M - Operation and maintenance.
- (13) POTW - Publicly-owned treatment works.
- (14) RCRA - Resource Conservation and Recovery Act.
- (15) SIC - Standard industrial classification.
- (16) SWDA - Solid Waste Disposal Act.
- (17) TSS - Total suspended solids.
- (18) TKN - Total kjeldahl nitrogen.
- (19) U.S.C. - United States Code.

(Ord. of 12/6/82; Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

ARTICLE B
General Sewer Use Requirements

Section 5-3011 Prohibited discharge standards.

(a) General prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one half inch (1/2") in any dimension.

(3) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(4) Any wastewater having a pH less than 5.0 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.

(5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.

(6) Any wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 140°F (40°C).

(7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants.

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(11) Any wastewater which imparts color which is not removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters

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injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations.

(13) Storm water, surface water, ground water, artesian well water, roof runoffs subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director.

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than three hundred (300) mg/l unless authorized by the POTW Director.

(15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit.

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director.

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B.0200.

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

(21) Recognizable portions of the human or animal anatomy.

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(23) Any wastes causing two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) of more than five percent (5%) or which causes any single reading ten percent (10%) or higher than the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the POTW Director determines that a user is contributing to the POTW any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

(1) Advise the user of the potential impact of the contribution on the POTW in accordance with Section 5-3091; and

(2) Take appropriate actions in accordance with Section 5-3041 and 5-3042 for such user to protect the POTW from interference or pass through.

(Ord. of 12/6/82; Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3012 National categorical pretreatment standards.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(e) A user may request a removal credit adjustment to a categorical standard in accordance with CFR 403.7.

(Ord. of 12/6/82; Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3013 Local limits.

To implement the general and average discharge prohibitions listed in this chapter, industrial user-specific discharge limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

250	mg/l	BOD
250	mg/l	TSS
25	mg/l	NH3
0.003	mg/l	arsenic
0.003	mg/l	cadmium
0.061	mg/l	copper
0.015	mg/l	cyanide
0.049	mg/l	lead
0.0003	mg/l	mercury
0.021	mg/l	nickel
0.005	mg/l	silver
0.05	mg/l	total chromium
0.175	mg/l	zinc

Industrial user-specific discharge limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, the concentration-based limits above.

(Ord. of 12/6/82; Ord. of 6/26/95/ Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3014 State requirements.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. of 12/6/82; Ord. of 6/26/95)

Section 5-3015 Right of revision.

The town reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulation if deemed necessary to comply with the objectives presented in Section 5-3001 of this chapter or the general and specific prohibitions in Section 5-3011 of this chapter, as is allowed by 40 CFR 403.4.

(Ord. of 12/6/82; Ord. of 6/26/95)

Section 5-3016 Dilution.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards unless expressly authorized by an applicable pretreatment standard or other pollutant-specific limitation developed by the town or state.

(Ord. of 12/6/82; Ord. of 6/26/95)

Section 5-3017 Pretreatment of wastewater.

(a) Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under Section 5-3042 of this chapter and shall achieve compliance with all National Categorical Pretreatment Standards, local limits, and the prohibitions set out in Section 5-3011 of this chapter within the time limitations as specified by EPA, the state, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the town for review, and shall be approved by the POTW Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the town under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(b) Additional pretreatment measures.

(1) Whenever deemed necessary, the POTW Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and take such other actions as may be necessary to protect the POTW and enable the Pretreatment Director to determine whether the user is complying with the requirements of this chapter.

(2) The POTW Director may require any person discharging into the POTW to install and maintain, on his property and at his expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. of 12/6/82; Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3018 Accidental Discharge/Slug Control Plans.

(a) At least once every two (2) years, the POTW Director shall evaluate whether each significant industrial user needs a plan to control and prevent slug discharges and accidental discharges as defined in Section 3002 Slug load or discharge. All SIU's must be evaluated within one year of being designated an SIU. The POTW Director may require any user to develop, submit for approval and implement such a plan. Alternatively, the POTW Director may develop such a plan for any user.

(b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential nature for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also, see Sections 3055 and 3056.

(c) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by Section 5-3056 of this chapter; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. of 12/6/82; Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3019 Hauled wastewater.

Hauled wastewater is prohibited.

(Ord. of 12/6/82; Ord. of 6/26/95; Ord. of 11/6/06)

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ARTICLE C

Fees

Section 5-3031 Purpose.

The town shall adopt, at least annually, an adequate schedule of user charges and surcharges and tap fees to defray the cost of administering, operating and maintaining the wastewater disposal system. The costs to be used as a basis for determining the charges shall include, but are not necessarily limited to, administration, direct operation and maintenance, collection and billing of charges, bond redemption, studies and reports, professional fees, repairs, capital improvements and cost of service line connections. The user charges, surcharges and tap fees are to be used only for the purpose of administering, operating, and maintaining the wastewater disposal system, and shall be published on a form for public distribution and notice and shall become Appendix A and B of this chapter upon adoption and public notification. The current fees and charges schedule shall continue in effect until revised by the town.

(Ord. of 12/6/82; Ord. of 6/26/95)

Section 5-3032 User charges.

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(a) The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW.

(b) Each user shall pay its proportionate cost based on volume of flow.

(c) The Town Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and make recommendations to the Town Council for adjustments in the schedule of charges and fees as necessary.

(d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

(Ord. of 12/6/82; Ord. of 6/26/95)

Section 5-3033 Surcharges.

An industrial user of the POTW whose wastes exceed the limitations established by Section 5-3013 of this chapter is in the discretion of the Town of Valdese Town Council subject to an industrial waste surcharge as set forth in Appendix A to this chapter.

(a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the town; or

(2) If required by the town or at the individual dischargers option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the town. The metering system shall be installed and

maintained at the user's expense according to arrangements that may be made with the town.

(3) Where any user procures all or part of his water supply from sources other than the town, the user shall install and maintain at his own expense a flow measuring device of a type approved by the town.

(b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the town. Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 CFR Part 136.

(c) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his duly appointed representatives shall be binding as a basis for charges.

(Ord. of 12/6/82; Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3034 Pretreatment program administration charges.

The schedule of charges and fees adopted by the town may include charges and fees for:

- (a) Reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) Monitoring, inspections and surveillance procedures;
- (c) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) Permitting;
- (e) Other fees as the town may deem necessary to carry out the requirements of the Pretreatment Program.

(Ord. of 12/6/82; Ord. of 6/26/95; Ord. of 11/6/06)

Section 5-3035 Partial payments of bills.

Partial payments toward a bill covering recycling, sewage and water services are to be applied among these services in the following order:

- (1) Recycling services;
- (2) Sewage services; and
- (3) Water services.

(Ord. of 9/8/92; Ord. of 6/26/95)

ARTICLE D

Wastewater Discharge Permit Application and Issuance

Section 5-3041 Wastewater discharges.

It shall be unlawful for any person to connect or discharge without first obtaining the permission of the town. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within 90 days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. of 12/6/82; Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3042 Wastewater permits.

All significant users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) Significant Industrial User Determination.

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater, shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria, he will require that a significant industrial user permit application be filed.

(b) Significant industrial user permit application.

Users required to obtain a significant industrial user permit shall complete and file with the town, an application in the form prescribed by the POTW Director, and accompanied by a fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in Section 5-3042(a) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of industrial user;
- (2) Address of industrial user;
- (3) Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
- (4) Wastewater flow;
- (5) Types and concentrations (or mass) of pollutants contained in the discharge;
- (6) Major products manufactured or services supplied;
- (7) Description of existing on-site pretreatment facilities and practices;
- (8) Locations of discharge points;
- (9) Raw materials used or stored at the site;
- (10) Flow diagram or sewer map for the industrial user;
- (11) Number of employees;
- (12) Operation and production schedules; and
- (13) Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).

(c) Application Signatories and Certification.

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control authority and/or municipality as defined in Section 5-3002 and contain the following certification statement:

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"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) Application review and evaluation.

The POTW Director will evaluate the data furnished by the user and may require additional information.

(1) The POTW Director is authorized to accept applications for the town and shall refer all applications to the POTW staff for review and evaluation.

(2) Within thirty (30) days of receipt the POTW Director shall acknowledge and accept the complete application or, if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) Tentative determination and draft permit.

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staffs tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:

(A) Proposed discharge limitations for those pollutants proposed to be limited;

(B) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

(C) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the town's general permit conditions into a significant industrial user permit.

(f) Permit supporting documentation.

The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

(1) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

(2) The basis, or rationale, for the pretreatment limitations, including the following:

(A) Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and

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(B) Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).

(g) Final action on significant industrial user permit applications.

(1) The POTW Director shall take final action on all applications not later than ninety (90) days following receipt of a complete application.

(2) The POTW Director is authorized to:

(A) Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this chapter and N.C.G.S. 143-215.1;

(B) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(C) Modify any permit upon not less than 60 days' notice and pursuant to Section 5-3042(i) of this chapter;

(D) Revoke any permit pursuant to Section 5-3091 of this chapter;

(E) Suspend a permit pursuant to Section 5-3091 of this chapter;

(F) Deny a permit application when in the opinion of the POTW Director such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. 143-215.1.

(h) Permit Modification.

(1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(A) changes in the ownership of the discharge when no other change in the permit is indicated,

(B) a single modification of any compliance schedule not in excess of four (4) months,

(C) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(2) Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the timeframe prescribed by such standard. Where a user, subject to National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by Section 5-3042(b), the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard.

(3) A request for a modification by the permittee shall constitute a waiver of the sixty (60) day notice required by G.S. 143-215.1(b) for modifications.

(i) Permit conditions.

(1) The POTW Director shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purposes of this chapter and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

(A) A statement of duration (in no case more than five years);

(B) A statement of non-transferability;

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- (C) Applicable effluent limits based on categorical standards or local limits or both;
- (D) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;
- (E) Requirements for notifying the POTW in the vent of an accidental discharge or slug load as defined in Section 5-3002(a)(Significant Noncompliance);
- (F) Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 5-3002(a)(Significant Noncompliance), if determined by the POTW Director to be necessary for the User and,
- (G) Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in Section 5-3002(a)(Significant Noncompliance). Also see Sections 5-3055 and 5-3056.
- (H) A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
 - (A) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 - (B) Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (C) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (D) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 - (E) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
 - (F) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (G) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 - (H) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self- monitoring indicates a violation(s).
 - (I) Compliance schedules for meeting pretreatment standards and requirements.
 - (J) Requirements for submission of periodic self- monitoring or special notification reports.
 - (K) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in Section 5-3063 and affording the POTW Director, or his representatives, access thereto.
 - (L) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.

(M) Requirements for the prior notification and approval by the POTW Director of any change in the manufacturing and/or pretreatment process used by the permittee.

(N) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.

(O) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(k) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(l) Permit transfer. Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(m) Permit reissuance. A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with Section 5-3042 a minimum of 180 days prior to the expiration of the existing permit.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

ARTICLE E

Reporting Requirements

Section 5-3051 Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the POTW Director a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(1) Identifying information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of pollutants as follows:

(A) The categorical pretreatment standards applicable to each regulated process.

(B) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the POTW Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 5-3060 of this chapter.

(C) Sampling must be performed in accordance with procedures set out in Section 5-3061 of this chapter and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

(6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 5-3002(a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance schedule. If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 5-3052 of this chapter.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Section 5-3042(c) of this chapter.
(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3052 Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 5-3051(b)(7) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the POTW Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the POTW Director.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3053 Reports on compliance with Categorical Pretreatment Standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in Section 5-3051(b)(4) through (6) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 5-3042(c) of this chapter.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3054 Periodic compliance reports.

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

(a) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than once every six (6) months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in Sections 5-3060 and 5-3061 of this chapter. All periodic compliance reports must be signed and certified in accordance with Section 5-3042(c) of this chapter.

(b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in Sections 5-3060 and 5-3061 of this chapter, the results of this monitoring shall be included in the report.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3055 Reports of changed conditions.

Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from the Control Authority and/or Municipality. See Section 5-3056(d) for other reporting requirements.

(a) The POTW Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 5-3042 of this chapter.

(b) The POTW Director may issue a wastewater discharge permit under Section 5-3042 of this chapter or modify an existing wastewater discharge permit under Section 5-3042 of this chapter in response to changed conditions or anticipated changed conditions.

(c) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants. Increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to the Control Authority and/or Municipality; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3056 Reports of potential problems.

(a) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 5-3002(a) Slug Load or Discharge, that may cause potential problems for the POTW, the user shall immediately notify the POTW Director of the incident in person or by telephone. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 5-3002(a) Slug Load or Discharge.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3057 Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3058 Notice of violation/repeat sampling and reporting.

(a) If sampling performed by a user indicates a violation, the user must notify the POTW Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within thirty (30) days after becoming aware of the violation. If allowed by the POTW Director, the user is not required to resample:

- (1) If the POTW Director monitors at the user's facility at least once a month, or
- (2) If the POTW Director samples between the user's initial sampling and when the user receives the results of this sampling.

(b) If the POTW Director has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the POTW Director shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

- (1) The POTW Director monitors at the user's facility at least once a month; or
 - (2) The POTW Director samples the user between their initial sampling and when the POTW receives the results of the initial sampling; or
 - (3) The POTW Director requires the user to perform sampling and submit the results to the POTW Director within the 30 day deadline of the POTW becoming aware of the violation.
- (Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3059 Discharge of hazardous waste.

Discharge of hazardous waste is prohibited.
(Ord. of 6/26/95)

Section 5-3060 Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and Town. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3061 Sample collection.

(a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(b) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutant as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and ninety (90) day compliance reports. Additionally, the POTW Director may allow collection of multiple grabs during a twenty-four (24)-hour period which are composited prior to analysis as allowed under 40 CFR 136.

(c) Composite samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Pretreatment Director. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3062 Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed postage prepaid at a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. of 6/26/95)

Section 5-3063 Record keeping.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name(s) of the person(s) taking the samples, the dates analyses were performed; the name(s) of the person(s) who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period may also be automatically extended for the duration of any litigation concerning the user or the town, or where the user has been specifically notified of a longer retention period by the POTW Director.

(Ord. of 6/26/95; Amendment of 11/5/12)

ARTICLE F Compliance Monitoring

Section 5-3071 Monitoring facilities.

(a) The town requires the user to provide and operate, at the user's expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the town may, when such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the town's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the town.

(Ord. of 6/26/95)

Section 5-3072 Inspection and sampling.

The town will inspect the facilities of any user to ascertain whether the user is complying with the requirements of this chapter. Persons or occupants of premises where wastewater is created or discharged shall allow the town, approval authority and EPA or their representatives access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, copying and otherwise performing their duties. The town, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with his security guards so that upon presentation of suitable identification, personnel from the town, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the Town's approval authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays in allowing entry and/or inspection shall constitute denial of access.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3073 Search warrants.

If the Town, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health,

safety and welfare of the community, then the Town, approval authority, or EPA may seek issuance of a search warrant.

(Ord. of 6/26/95; Amendment of 11/5/12)

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ARTICLE G
Confidential Information

Section 5-3081 Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the POTW Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(c) All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. of 6/26/95; Amendment of 11/5/12)

ARTICLE H Enforcement

Section 5-3091 Administrative remedies.

(a) Notification of violation.

Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the POTW Director shall serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction of the violation shall be submitted by the user to the town. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent orders.

The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar agreements with the person in noncompliance. Such orders and agreements will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders and voluntary compliance agreements shall have the same force and effect as an administrative order issued pursuant to Section 5-3091(d), below.

(c) Show cause hearing.

The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge or who has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under Section 5-3092 nor is any action or inaction taken by the POTW Director under this section subject to an administrative appeal under Section 5-3042(h).

(d) Administrative orders.

When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement, the POTW Director may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with this chapter, the permits or orders issued under this chapter and with all other applicable requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;

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(3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;

(4) Disconnect from the sewer system unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

Appeal of an administrative order issued in accordance with this section shall be as provided in Section 5-3042(h).

(e) Emergency suspensions.

The POTW Director may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the noncompliant contribution. A hearing will be held within fifteen (15) days of the notice of suspension to determine whether the suspension should be lifted or whether the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(f) Termination of permit or permission to discharge.

The POTW Director may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

(1) Failure to accurately report the wastewater constituents and characteristics of his discharge;

(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,

(4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under Section 5-3091 of this chapter why the proposed action should not be taken.

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3092 Civil penalties.

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(a) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations and permits issued hereunder may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) per day per violation.

(1) Penalties between ten thousand dollars (\$10,000) and twenty-five thousand dollars (\$25,000) per day per violation may be assessed against a violator only if:

(A) For any class of violation, only if a civil penalty has been imposed against the violator within the five (5) years preceding the violation, or

(B) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this chapter, or the orders, rules, regulations and permits issued hereunder, only if the POTW Director determines that the violation was intentional and a civil penalty has been imposed against the violator within the five (5) years preceding the violation.

(b) In determining the amount of the civil penalty, the POTW Director shall consider the following:

(1) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(2) The duration and gravity of the violation;

(3) The effect on ground or surface water quantity or quality or on air quality;

(4) The cost of rectifying the damage;

(5) The amount of money saved by noncompliance;

(6) Whether the violation was committed willfully or intentionally;

(7) The prior record of the violator in complying or failing to comply with the pretreatment program;

(8) The costs of enforcement to the town.

(c) Appeals of civil penalties assessed in accordance with this section shall be as provided in Section 5-3042(h).

(Ord. of 6/26/95; Ord. of 11/6/06; Amendment of 11/5/12)

Section 5-3093 Other available remedies.

Remedies, in addition to those previously mentioned in this chapter are available to the POTW Director who may use any one or combination of additional remedies against a noncompliant user. Additional available remedies include, but are not limited to:

(a) Criminal violations. The District Attorney for the 25th Judicial District may, at the request of the town, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B.

(b) Injunctive relief. Whenever a user is in violation of the provisions of this chapter or an order or permit issued hereunder, the POTW Director, through the Town Attorney, may petition the Superior Court of Burke County for the issuance of a temporary restraining order, a preliminary injunction and/or a permanent injunction which restrains or compels the activities in question.

(c) Water supply severance. Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user

may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) Public nuisances. Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director. Any person(s) creating a public nuisance shall be subject to the provisions of the G.S. 160A-193 governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(Ord. of 6/26/95; Amendment of 11/5/12)

Section 5-3094 Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all, or any combination of enforcement actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Town's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant.

(Amendment of 11/5/12)

ARTICLE I
Annual Publication of Significant Noncompliance

Section 5-3101 Annual publication of significant noncompliance.

At least annually, the POTW Director shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance, in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous twelve (12) months.

(Ord. of 6/26/95; Amendment of 11/5/12)

ARTICLE J
Adjudicatory Hearings

Section 5-3105 Adjudicatory hearings.

Hearings: The local government may conduct hearings in accordance with its regular hearing procedure.

(a) Adjudicatory Hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under Section 5-3092, or one issued an administrative order under Section 5-3091, shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within thirty (30) days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The hearing officer shall make a final decision on the contested penalties within ninety (90) or less days of the receipt of the written demand for a hearing. The hearing officer shall make a final decision on contested permits or orders within ninety (90) days of receipt of the written demand for a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail as described in paragraph (b) below. The decision is a final decision for the purpose of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

(1) New permits: Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) Renewed permits: Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(3) Terminated permits: Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) Official Record. When a final decision is issued under paragraph (a) above, the Hearing Officer shall prepare an official record of the case that includes:

- (1) All notices, motions, and other like readings;
- (2) A copy of all documentary evidence introduced;
- (3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
- (4) A copy of the final decision of the Hearing Officer.

(c) Judicial Review. Any person against whom a final order or decision of the Hearing Officer is entered, pursuant to the hearing conducted under paragraph (a) above, may seek judicial review of the order or decision by filing a written request for review by the Superior Court of Burke County within thirty (30) days after receipt of notice by registered or certified

mail of the order or decision, but not hereafter, along with a copy to the Town. Within thirty (30) days after the receipt of copy of the written request for review by the Court, the Hearing Officer shall transmit to the reviewing court the original or a certified copy of the official record.

(Amendment of 11/5/12)

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ARTICLE K
Affirmative Defenses to Discharges Violations

Section 5-3111 Upset.

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.

(b) A user who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user submitted the following information to the Pretreatment Director orally within twenty-four (24) hours after becoming aware of the upset and in writing within five (5) days after the user became aware of the upset:

- (A) A description of the indirect discharge and cause of noncompliance;
- (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) Each user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(Ord. of 6/26/95)

Section 5-3112 Prohibited discharge standards defense.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 5-3011(a) of this chapter or the specific prohibitions in Sections 5-3011(b)(2),(3),(5) through (7), and (9) through (23) of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit immediately prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with

its NPDES permit, and in the case of interference, was in compliance with applicable sludge use and disposal requirements.

(Ord. of 6/26/95)

Section 5-3113 Bypass.

(a) Bypass is prohibited, and the Pretreatment Director may take an enforcement action against a user for a bypass unless:

(1) The bypass did not cause pretreatment standards or requirements to be violated and the bypass was necessary in order to perform essential maintenance to ensure efficient operation.

(2) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(3) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance.

(b) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Pretreatment Director, at least ten (10) days before the date of the bypass, if possible. The Pretreatment Director may approve the anticipated bypass after considering its adverse effects and determining whether it will meet any of the exceptions set forth in (a) above.

(c) A user shall submit oral notice to the Pretreatment Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty- four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Treatment Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(Ord. of 6/26/95)

Section 5-3114 Severability.

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

(Ord. of 11/6/06)

Section 5-3115 Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(Ord. of 11/6/06)

CHAPTER 4 Fats, Oils and Grease Control

Section 5-4001 Purpose.

Section 5-4002 Definitions.

Section 5-4003 Grease interceptors required.

Section 5-4004 Compliance date.

Section 5-4005 Discharge criteria.

Section 5-4006 Service/inspection ports and monitoring ports.

Section 5-4007 Under the sink grease interceptors.

Section 5-4008 Interceptor maintenance.

Section 5-4009 Grease interceptor treatment products.

Section 5-4010 Monitoring, inspection and entry.

Section 5-4011 Prohibited discharges.

Section 5-4012 Enforcement.

Section 5-4013 Severability.

Appendix: Fats, Oils and Grease Chapter Schedule of Penalties.

Section 5-4001 Purpose.

The purpose of this chapter is to aid in the prevention of sanitary sewer blockages and obstructions from the accumulation of fats, oils and grease in the town's sewer system.

(Ord. of 8/1/05)

Section 5-4002 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) Fats, oils and grease. Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules.

(b) Food service establishment. Any commercial, industrial or institutional facility discharging kitchen or food preparation wastewater including, but not limited to, the following: restaurants, motels, hotels, cafeterias, hospitals, schools, nightclubs, delicatessen, meat cutting-preparation, bakeries, bagel shops, grocery stores, gas stations, and any other facility that the Pretreatment Director determines to be in need of a grease interceptor by virtue of its operation.

(c) Grease interceptor. A device used to effect the separation of fats, oils and grease in wastewater effluent which prevents the discharge of fats, oils and grease in excess of 300 milligrams per liter (mg/l) concentration, or has been found by the Pretreatment Director to prevent the discharge of fats, oils and grease in quantities sufficient to cause POTW line stoppages or necessitate increased maintenance of the POTW in order to keep line stoppages from occurring. An interceptor may be of the "outdoor" or underground type normally of a one thousand (1,000)-gallon capacity or more, or "under-the-counter" package unit, which is typically less than one hundred (100)-gallon capacity. For the purpose of this definition, the terms "grease interceptor", "interceptor" and "grease trap" are used interchangeably.

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(d) Inspector. The Pretreatment Director and persons acting under the Pretreatment Director's direction who are investigating compliance with this chapter.

(e) Operator. The operator of a food service establishment.

(f) Owner. An individual, person, firm, company, association, society, corporation, or other entity upon whose property the building or structure containing the food service establishment is located or will be constructed. "Owner" shall also include the owner of a food service establishment which is leasing the building, structure, or a portion thereof containing the food service establishment.

(g) Plumbing Code. The current edition of the North Carolina Plumbing Code.

(h) POTW (Publicly Owned Treatment Works). The treatment works as defined by Section 212 of The Federal Water Pollution Control Act, also known as the Clean Water Act, (33 U.S.C. 1292), which is owned by the Town of Valdese. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid or solid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this resolution, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the town who are, by contract or agreement with the town, or in any other way, users of the POTW.

(i) Pretreatment Director. The Pretreatment Director of the Town of Valdese, or his authorized representative(s).

(j) Town. The Town of Valdese, North Carolina, or any duly authorized agent(s) or official(s) acting on its behalf.

(k) Waste. Liquid and water-carried wastes, whether treated or untreated. The terms "sewage" and "wastewater" shall be deemed to be waste by definition.

(Ord. of 8/1/05)

Section 5-4003 Grease interceptors required.

Food service establishments shall discharge all waste from sinks, dishwashers, drains and any other fixtures through which fats, oils and grease may be discharged into a properly maintained and functioning grease interceptor.

(Ord. of 8/1/05)

Section 5-4004 Compliance date.

(a) Operators of existing food service establishments which are not equipped with a grease interceptor which is in compliance with the requirements of this chapter shall install a grease interceptor within six (6) months of the effective date of this chapter.

(b) New food service establishments shall be equipped with a grease interceptor prior to commencement of discharge to the POTW.

(c) Any requests for extensions of time for installing a grease interceptor must be made in writing to the Pretreatment Director at least thirty (30) days in advance of the compliance date. The written request shall include the reasons for the operator's failure or inability to comply with the applicable compliance date, the amount of additional time needed to complete the remaining work, and the steps to be taken to avoid future delays. The

Pretreatment Director shall determine whether to grant an extension and the date for compliance.

(Ord. of 8/1/05)

Section 5-4005 Discharge criteria.

The following prohibitions shall apply to food service establishments:

(a) Where fats, oils and grease are byproducts of food preparation and/or cleanup, reasonable efforts shall be made to separate waste fats, oils and grease into a separate container for proper disposal. Except as contained in byproducts of food preparation and/or clean up, waste fats, oils and grease shall not be discharged to any drains or grease interceptors. Such waste shall be placed in a container designed to hold such waste and either used by industry or disposed of at a suitable location.

(b) The influent to interceptors shall not exceed one hundred forty degrees Fahrenheit (140° F). The temperature at the interceptor's flow control device inspection port shall be considered equivalent to the temperature of the influent.

(c) Toilets, urinals, and other similar fixtures shall not discharge through a grease interceptor.

(d) Waste shall enter the grease interceptor only through the inlet flow control device, then the inlet pipe.

(e) Where food-waste grinders are installed, the waste from those units shall discharge directly into the building drainage system without passing through a grease interceptor.

(Ord. of 8/1/05)

Section 5-4006 Service/inspection ports and monitoring ports.

(a) Except for under the sink grease interceptors, each interceptor shall be located outside of a building or structure in an area accessible for service, and so installed and connected that it shall be at all times easily accessible for inspection and for cleaning and removal of the intercepted waste. Inlet flow control inspection ports, interceptor inspection ports and effluent monitoring ports shall be in areas where vehicles may not temporarily block access for inspection. Interceptors shall be deemed to be inaccessible if the use of ladders or the removal of bulky equipment or stored materials as required to inspect inlet flow control devices, inspect or service interceptors, or sample interceptor effluent. Inspection ports and monitoring ports shall be located so as to allow inspectors quick and easy access to the inlet flow control device, each compartment of the interceptor, and the effluent from the interceptor. An interceptor shall not be installed in any part of a building where food is handled. The location of all interceptors, inspection ports, and monitoring ports must be approved by the Pretreatment Director.

(b) An inspection port shall be provided for the flow control device regulating flow into the interceptor.

(c) A one-piece removable metal plate covering the entire interceptor shall be preferred as an interceptor inspection port although, in the discretion of the Pretreatment Director, standard manhole ports may be installed over each divider in the interceptor, but in either case all parts of the interceptor shall be easily accessible for cleaning and visual inspection.

(d) A monitoring port shall be provided for ease in sampling the effluent from the interceptor and shall be as close as possible to the connection with the town POTW within the bounds of the facility property. The port shall be installed and maintained at the operator's expense. The operator shall properly place, monitor, and maintain the monitoring port so that wastewater samples taken from the monitoring port are representative of wastewater leaving the interceptor. It shall be unlawful for a operator to divert sewage around a monitoring point into the POTW.

(Ord. of 8/1/05)

Section 5-4007 Under the sink grease interceptors.

(a) If an outside grease interceptor is not practical, an under the sink grease interceptor may be installed subject to the approval of the Pretreatment Director. In addition to the general requirements for grease interceptors as provided in this chapter, under the sink grease interceptors shall be subject to the following additional requirements.

(b) Under the sink interceptor requirements.

(1) Under the sink interceptors shall be located within twenty-five (25) feet of the wastewater source and as close to the wastewater source as is reasonably possible.

(2) The lid shall be secured to the body with a single bolt. No wing nuts or screws shall be permitted.

(3) Baffle systems and all other internal pieces shall be removable to facilitate cleaning and replacement, but must be in place at all other times.

(4) The lid shall cover the deep seal interceptor. The deep seal interceptor shall be constructed so as to eliminate the possibility of sewer gas entering the kitchen area.

(5) The interceptors shall be constructed with bottom supports so that the body of the interceptor does not corrode by coming into contact with the floor.

(6) The interceptor shall be coated with a powder coated electrostatically applied cathodic epoxy coating so as to be resistant to corrosion.

(7) The interceptor shall be equipped with a flow control fitting.

(c) Installation requirements.

(1) The interceptor may be set on the floor, partially recessed in the floor with top flush with the floor, or fully recessed below the floor to suit piping and structural conditions, as acceptable to the Pretreatment Director.

(2) There shall be sufficient clearance for the removal of the interceptor cover for cleaning.

(3) Unless specifically approved by the Pretreatment Director, runs of pipe exceeding twenty-five (25) feet between fixture and interceptor shall not be permitted.

(4) The interceptor shall not be installed in a waste line from a garbage grinder. Any garbage grinder waste shall bypass the interceptor.

(5) A suitable flow control fitting shall be installed ahead of the interceptor in the waste line beyond the fixture and as close as possible to the underside of the lowest fixture. When wastes of two (2) or more sinks or fixtures are combined to be used by one interceptor, a single flow control fitting shall be used.

(6) Air intake for flow control either shall terminate under the sink drain board as high as possible to prevent overflow, or shall terminate in a return bend at the same height and on the outside of the building.

(7) To retain water and prevent siphoning, all interceptors must be a vented and sized in accordance with the applicable plumbing codes.

(8) With the approval of Pretreatment Director, one interceptor may be used to serve multiple fixtures if the fixtures are located close together and the interceptor is sized to meet the combined flow of all the fixtures.

(Ord. of 8/1/05)

Section 5-4008 Interceptor maintenance.

(a) Required cleaning frequency.

(1) Unless otherwise specified by the Pretreatment Director, each interceptor in active use shall be cleaned at least once every six (6) months or more frequently as needed to prevent the discharge of fats, oils and grease in excess of three hundred (300) mg/l into the POTW. The Pretreatment Director may specify cleaning more frequently when pumping every six (6) months is shown to be inadequate. Additional pumping may be required during time periods when increased loading is anticipated.

(2) If the inspector determines that the interceptor is full, immediate steps shall be taken by the operator to pump out and clean the interceptor as soon as is practicable. The Pretreatment Director shall make an evaluation of the advisability of allowing discharge to continue, and may at his discretion order an immediate cessation of all discharge from the food service establishment.

(b) Notice of cleaning. Every operator shall, within ten (10) days of each cleaning of an interceptor located on the operator's premises, notify the Pretreatment Director in writing that the interceptor has been cleaned. The notice of cleaning shall include the date of the cleaning, the identity of the hauler, the site to which the contents of the interceptor were hauled and such other information as the Pretreatment Director may reasonably require. The operator shall submit with each notice of cleaning an invoice, manifest or other similar document from the hauler evidencing the cleaning of the interceptor. The operator shall also submit such other documentation relating to the cleaning of the interceptor as the Pretreatment Director may reasonably require.

(c) Cleaning procedures.

(1) The operator or an employee of the operator shall supervise the interceptor cleaning. Such person shall be present during and observe the entire cleaning operation.

(2) An operator shall cause the licensed waste hauler, transporter, or any other person cleaning or servicing an interceptor to completely evacuate all contents, including floating materials, wastewater, and bottom sludges and solids during servicing. Skimming the surface layer of waste material, partial cleaning of the interceptor or using any method that does not remove the entire contents of the collection device is prohibited. The suction of the floating materials shall be done prior to removal of other contents. After complete evacuation, the walls, top, and bottom of the interceptor shall be thoroughly scraped and the residue removed.

(3) It shall be unlawful for an operator to allow the decanting or discharging of removed waste back into the interceptor from which the waste was removed or into any other interceptor.

(4) When cleaned, the interceptor shall be fully evacuated unless the interceptor volume is greater than the tank capacity on the vacuum truck in which case the transporter shall arrange for additional transportation capacity so that the interceptor is fully evacuated within a twenty-four (24) hour period following the transporter's inability to fully evacuate the interceptor.

(d) Disposal of interceptor pumpage. All waste removed from each interceptor shall be disposed of at a facility permitted and authorized to receive such waste in accordance with all applicable Federal, State, and local regulations. Fats, oils and grease removed from an interceptor shall not be recycled so as to become a food product or part of a food product for animal or human consumption. The operator shall be responsible for assuring that the waste is disposed of in accordance with all Federal, State and local disposal regulations.

(e) Vacuum truck cleaning service. It shall be unlawful for an operator to allow grease interceptor waste to be removed from its premises by a transporter which does not have all applicable Federal, State and local permits or registrations.

(Ord. of 8/1/05)

Section 5-4009 Grease interceptor treatment products.

(a) Use of grease interceptor treatment products, including bacteria designed to digest fats, oils and grease, is specifically prohibited without prior written consent of the Pretreatment Director.

(b) The Pretreatment Director may revoke permission to use such products where the effluent from the interceptor or basin in which the product is used fails to meet the requirements of this chapter.

(Ord. of 8/1/05)

Section 5-4010 Monitoring, inspection and entry.

It shall be unlawful for the operator of a food service establishment to refuse to allow inspectors to enter its premises during reasonable hours to determine whether the operator is complying with all of the requirements of this chapter. The operator shall allow the inspectors access to all parts of the premises for purposes of inspection, sampling, records examination and copying, and the performance of additional duties reasonably required to enforce this chapter.

(Ord. of 8/1/05)

Section 5-4011 Prohibited discharges .

No person shall discharge fats, oils and grease into the POTW in excess of three hundred (300) mg/l.

(Ord. of 8/1/05)

Section 5-4012 Enforcement.

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(a) A violation of any of the provision of this chapter shall subject the offender to a civil penalties as set forth in the attached schedule of penalties. Penalties shall be assessed on a calendar year basis. If the offender fails to pay this penalty within fifteen (15) calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(b) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.

(c) The town may enforce this chapter by any one of or any combination of the foregoing remedies.

(d) The remedies provided above are not exclusive and do not prohibit the town from using any other remedy provided by law.

(Ord. of 8/1/05)

Section 5-4013 Severability.

If any part or parts of this chapter shall be held to be invalid, such invalidity shall not affect the remaining parts of this chapter.

(Ord. of 8/1/05)

Appendix

Fats, Oils and Grease Chapter

Schedule of Penalties

A. Minor Violations

2nd Offense

Failure to submit records \$ 50

Inspection hindrance (equipment related) \$ 50

Failure to pump FOG and submit records \$ 100

3rd Offense

Failure to submit records \$ 100

Inspection hindrance (equipment related) \$ 100

Failure to pump FOG and submit records \$ 300

4th Offense

Failure to submit records \$ 150

Inspection hindrance (equipment related) \$ 150

Failure to pump FOG and submit records \$ 300

5th Offense and up

Failure to submit records \$ 300

Inspection hindrance (equipment related) \$ 300

Failure to pump FOG and submit records \$1,000

B. Intermediate Violations

Failure to maintain necessary equipment (Sanitary T's, FOG interceptor not watertight, baffles, etc.)

1st Offense \$ 150

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2nd Offense \$ 300

3rd Offense \$ 500

4th Offense and Up \$1,000

C. Major Violation (Sewer Blockage)

Failure to obtain permit Water cutoff

Source of sewer blockage (minimum) \$ 500

Source of sanitary sewer overflow (minimum) \$1,000

Falsification of maintenance records \$1,000

Cost of repairs No limit

(Ord. of 8/1/05)

PART 6
Licensing and Regulation

Chapter 1. Businesses and Trades

Chapter 2. Street and Sidewalk Use and Regulation

CHAPTER 1

Businesses and Trades

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Taxicabs

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Section 6-1002 Unlawful to operate without certificate.

Section 6-1003 Application required.

Section 6-1004 Board issues certificates.

Section 6-1005 Term; renewal.

Section 6-1006 Determination of convenience and necessity.

Section 6-1007 Hearing, notices.

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Section 6-1011 Revocation of certificate.

Section 6-1012 Substitution of vehicles.

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ARTICLE A
Taxicabs

Section 6-1001 Definitions.

(a) Persons, when used in this article, shall mean and include both singular and plural, and shall also mean and include persons, individuals, firms, corporations, partnerships and associations.

(b) Taxicab, when used in this article, shall be defined as any motor vehicle seating nine (9) or fewer passengers, operated upon any street or highway or call on demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in subsection (k) of Section 62-103 of the General Statutes of North Carolina.

Section 6-1002 Unlawful to operate without certificate.

It shall be unlawful for any person to operate a taxicab upon and over the streets of the town without first having applied for and secured from the council a certificate of convenience and necessity as hereinafter set forth.

Section 6-1003 Application required.

Every person desiring to operate a taxicab upon and over the streets of the town shall file on forms supplied by the town clerk an application for certificate of convenience and necessity. (Code 1970, Sec. 18-5; As amended by Ord. of 9/12/94)

Section 6-1004 Board issues certificates.

The council shall have power and it will be its duty to order certain certificates issued or refuse to issue certain certificates or to issue certificates for partial exercise of the rights granted only such certificate such terms and conditions as in its judgment the public convenience and necessity may require.

Section 6-1005 Term; renewal.

A certificate of convenience and necessity issued under the provisions of this article shall constitute a franchise from the town for the operation of taxicabs within the town subject to the provisions of this article for one year, unless a shorter period of time is specified in the certificate. Application for renewal shall be filed annually and hearings conducted as provided by this article. (Code 1970, Sec. 18-11)

Section 6-1006 Determination of convenience and necessity.

(a) In determining whether the public convenience and necessity require the franchising of such taxicab or taxicabs, the council shall, among other things, take into consideration the following factors:

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(1) Whether or not the public convenience and necessity require such proposed or additional taxicab service within the town.

(2) The financial responsibility for the applicant and the likelihood of the proposed service being permanent, responsible and satisfactory.

(3) The number and condition of equipment.

(4) The schedule of proposed rates, if required by the council to be charged.

(5) The number of taxicabs now operated and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provision has been made for off-street parking of said taxicabs.

(6) The experience of applicant in the taxicab business.

(7) Such other relative facts as may be deemed necessary and advisable.

(b) Before making any decision with respect to the issuance of a certificate of convenience and necessity, the council, or a committee thereof shall make a full and complete investigation of all facts, if it so desires, subpoena witnesses and utilize the services of the chief of police or any other officer or employee of the town.

Section 6-1007 Hearing, notices.

Each application for a certificate of convenience and necessity shall be scheduled for a hearing not later than 30 days after the same is filed, and the applicant shall be notified by the town clerk by mail to the business address set forth in the application of the date and time of such hearing, such notification to be sent at least seven (7) days before the date set for the hearing. In addition the town clerk shall cause to be published at least once in a local paper, or posted on a suitable bulletin board at the town hall, a notice setting forth the name of the applicant and the date of the hearing and the time thereof. The cost of such publication shall be paid by the applicant. (Code 1970, Sec. 18-9)

Section 6-1008 Burden of proof.

The burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab or taxicabs specified in this application, and all other facts required for the granting of a certificate. (Code 1970, Sec. 18-7)

Section 6-1009 Failure to begin operations.

If a certificate is granted to an applicant, and said applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 30 days after the date of the certificate, then the certificate shall become null and void, and no refund of any amount paid by the applicant will be made by said town. (Code 1970, Sec. 18-22)

Section 6-1010 Transfer.

A certificate is not transferable without the consent and approval of the council. Applications for a permit to transfer shall be filed in the same manner as an application for a certificate of convenience and necessity. The proceedings upon such application for a

transfer shall be the same as those prescribed for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

Section 6-1011 Revocation of certificate.

The council may at any time after a public hearing revoke any certificate issued by authority of this article for any one or more of the following causes:

- (1) Failure to operate the taxicab specified in the certificate in such manner as to serve the public adequately and efficiently.
- (2) Failure to maintain the taxicab in good repair.
- (3) Failure to carry liability insurance or bond as required by law and as required by this article.
- (4) Failure to pay the town taxes or license fees imposed upon such taxicab.
- (5) Repeated and persistent violation by the taxicab drivers of traffic and safety regulations and ordinances, or state laws.
- (6) Failure of the taxicab driver to comply with any provision of this article or other ordinances or state laws relating to the operation of taxicabs.
- (7) Failure to maintain off-street parking facilities.
- (8) Failure to abide by and charge the fares set by the Town Council.
- (9) Failure to operate a taxicab for a period of 30 days.
- (10) A violation by a taxicab driver of the provisions of this article relating to alcoholic beverages, prostitution or gambling.

No certificate of convenience and necessity shall be revoked until the owner has had at least five (5) days' notice by personal service or registered mail of the charge(s) against him, and of the time and place of the hearing. If, after the hearing, it is found by the town council that one or more of the causes listed herein exist, the council shall have the power to revoke the certificate, or to condition the revocation upon compliance with its order within any time fixed by it. (Ord. of 9/12/94)

Section 6-1012 Substitution of vehicles.

The person to whom a certificate has been issued may, by appropriate endorsement, by the town clerk, substitute another vehicle, or other vehicles, for the vehicle or vehicles, for which the certificate was granted. In such instance, the liability insurance or bonds shall also be transferred to such substitute vehicle or vehicles. (Code 1970, Sec. 18-15)

Section 6-1013 No person to hold more than one certificate.

The council reserves the right to issue only one such certificate to any one person, and the person holding such certificate shall be required to operate his taxicab himself and shall have no power or authority by virtue of his certificate to delegate the operation of such taxicab to any person.

Section 6-1014 Maximum number to be issued.

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The maximum number of certificates of convenience and necessity which may be issued under this article, and the maximum number of taxicabs, which may be operated at any one time thereunder shall be 10. (Code 1970, Sec. 18-14)

Section 6-1015 Liability insurance required.

Each holder of a certificate of convenience and necessity under this article shall have in full force and effect on each vehicle being operated as a taxicab upon and over the streets of the town liability insurance in the amount of at least \$25,000 covering injury to any one person in any one accident and \$50,000 to more than one person in any one accident, and not less than \$15,000 covering property damage in any one accident, or in the amounts required under applicable state laws, whichever is greater. Such insurance shall be with an insurance company licensed to operate and do business within the state. Compliance with the above insurance provisions is declared to be a condition precedent to the operation of any taxicab upon and over the streets of the town. (Ord. of 11/7/94)

Section 6-1016 Identification of vehicles.

Every holder of a certificate of convenience and necessity for one or more taxicabs under the provisions of this article shall display upon each of his taxicabs identification of his taxicab name, telephone number and the fact that it operates from the town. This identification shall be either by dome lights or lettering on the exterior of the automobile. Such lettering shall be at least three (3) inches in height. In the event that it is necessary to replace any such taxicab by another automobile, then a permit may be obtained from the town for the temporary replacement of such vehicle. (Code 1970)

Section 6-1017 Rates and fares.

Every holder of a certificate of convenience and necessity under this article shall cause to be displayed in each taxicab under his control in a conspicuous position where the same shall be plainly visible to passengers a schedule of rates and fares authorized and required to be charged, in accordance with the schedule established by the council, and available in the office of the clerk.

Section 6-1018 Fee.

The fee for a certificate of convenience and necessity for a taxicab shall be \$25 per year. (Ord. of 9/12/94)

Section 6-1019 Drivers' permits.

It shall be unlawful for any person to operate or drive a taxicab over and upon the streets and highways of the town without first having applied for and secured a driver's permit from the council.

Section 6-1020 Application for permit.

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Every person desiring to drive a taxicab, either as an owner-driver or as an employee-driver, shall make application for a driver's permit to the town using such forms as the town may furnish for this purpose. (Code 1970, Sec. 18-19)

Section 6-1021 Determination of necessity - generally.

(a) In determining whether the public convenience and necessity requires the issuance of a taxicab driver's permit, the council shall consider among other factors:

(1) Whether the public necessity and convenience will be benefited and served by the awarding of the permit to the applicant.

(2) The request of the owner of the taxicab to be driven.

(3) The general reputation of the applicant.

(4) The physical and mental condition of the applicant.

(5) The court record of the applicant, if any.

(6) Such other relative facts as may be deemed necessary and advisable.

(b) Before making any decision with respect to the issuance of a taxicab driver's permit, the board shall make an investigation, either by a committee of the council or by its appointed agent, of all the facts. For this purpose the council shall have power to conduct hearings, subpoena witnesses, or to use the town employees to gather information and report same.

Section 6-1022 Same; burden of proof.

The burden of proof shall be upon the applicant to establish the necessity of the existence of a public need for the issuance of the taxicab driver's permit applied for. (Code 1970, Sec. 18-21)

Section 6-1023 Issuance, etc., generally.

The council shall have the power and it shall be its duty to order certain taxicab driver's permits issued, or to refuse to issue or to condition the issue of such permits, awarding a full or partial exercise of the privileges sought, as the council may consider expedient and proper.

Section 6-1024 Fee.

The fee for a taxicab driver's permit shall be \$5 per year. (Ord. of 9/12/94)

Section 6-1025 Term; renewals.

A permit issued under the provisions of this article shall constitute a permit to drive a taxicab within the town for a period of one year, unless a shorter period of time is specified in the permit. Applications for renewal of such permits shall be filed annually. (Code 1970, Sec. 18-24)

Section 6-1026 Transferability.

A taxicab driver's permit issued under this article shall not be transferable. (Code 1970, Sec. 18-25)

Section 6-1027 Revocation of permit.

The council may at any time after a public hearing revoke any taxicab driver's permit issued under authority of this article for any one or more of the following causes:

- (1) Failure to drive the vehicle assigned to his use, if same is in a good state of repair and duly licensed under the provisions of this article.
- (2) Failure to pay the annual license or permit fee.
- (3) Repeated violations of traffic regulations or the provisions of this article or other ordinances governing the operation of taxicabs and taxicab drivers.
- (4) Failure to abide by and charge the approved fares listed in section 6-1017 or other ordinances and scheduled in the operator's application for a certificate of convenience and necessity.
- (5) Violation of any provision of this code or other ordinance or state law governing the operation of taxicabs, the use and sale or transportation of alcoholic beverages or narcotics.
- (6) Acting as a willful accessory in engaging in or promoting an act of gambling, prostitution, adultery or a felony.
- (7) A violation of this article.

Section 6-1028 through section 6-1030 reserved.

ARTICLE B
Sunday Regulations

Section 6-1031 Sunday sales.

Pursuant to the authority granted by S.L. 2017-87, any establishment located in the Town of Valdese that holds an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays. (Ord. of 8/7/17)

~~ARTICLE B~~
~~Sunday Regulations~~

Section 6-~~1031-1032~~ through section 6-1040 reserved.

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ARTICLE C Game Rooms

Section 6-1041 Definitions.

(a) A game room for the purpose of this article shall be any place of business that principally operates mechanical, electronic and computer games, or pay devices or tables for which a charge is made either directly or indirectly.

(b) Examples of game rooms, ~~hy~~by way of illustration and not limitation, are poolrooms, bowling alleys, billiard halls, amusement centers, and the like. (Ord. of 12/6/82)

Section 6-1042 Permit required.

(a) Every operator of a game room shall apply for and obtain a permit from the town council to operate a game room. Application for such a permit shall be made upon forms provided by the town clerk.

(b) An application fee of \$15 shall be paid to and collected by the town clerk when the application is submitted to cover the cost of administration of this article.

(c) It shall be unlawful to operate a game room within the town without a permit as required by subsection (b). (Ord. of 12/6/82)

Section 6-1043 Restrictions.

The town council shall not issue a permit to any applicant who:

- (1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
- (2) Is not a resident of North Carolina; or
- (3) Is of immoral character; or
- (4) Is a habitual user of alcoholic beverages or narcotic drugs. (As amended by Ord. of 12/6/82)

Section 6-1044 Prohibited conduct.

Licensees under this article shall not, and neither shall their employees:

- (1) Suffer or permit any gambling on the licensed premises at any time; nor the sale or use of any racing, football, or other parlay cards or gambling boards or devices;
- (2) Suffer or permit the licensed premises to become disorderly; or permit any profane, obscene, or indecent language thereon;
- (3) Employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverages or narcotic drugs. (As amended by Ord. of 12/6/82)

Section 6-1045 Rules for operation of game rooms.

The following rules shall be observed by all operators of game rooms within the town.

- (1) All game rooms, with the exception of those game rooms providing on-premises parking for 50 or more automobiles, shall be closed from eleven o'clock (11:00) p.m. until seven o'clock (7:00) a.m. Monday through Thursday and shall close at twelve o'clock (12:00) midnight on Fridays and Saturdays. Game rooms which provide on-premises parking for 50

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or more automobiles shall be closed from one o'clock (1:00) a.m. until seven o'clock (7:00) a.m. Tuesday through Sunday, [e.g., on Monday nights such game rooms shall close at one o'clock (1:00) a.m. the following Tuesday morning and on Saturday nights such game rooms shall close at one o'clock (1:00) a.m. the following Sunday morning].

(2) No play on any game shall be allowed during the time when game rooms are required by this article to remain closed.

(3) Game rooms may be opened on Sunday only between the hours of one o'clock (1:00) p.m. and six o'clock (6:00) p.m. except as allowed by subsection (1) above.

(4) All game rooms shall be operated only on the ground floor of a building, and plate glass windows shall be in those parts of the building facing any street, so that a clear view inside may be had from the street.

(5) No screens, curtains, blinds, partitions, or other obstructions shall be placed between the entrance to the room where games are played and the rear wall of such room so that a clear view of the interior may be had from the street.

(6) No loud noises shall be allowed to emanate beyond the licensed premises.

(7) There must be an adult (18 years of age or older) managing the business on the premises during hours of operation at all times. (As amended by Ord. of 12/6/82; as amended by Ord. of 3/1/93)

Section 6-1046 Revocation of permit.

After giving the operator of a game room adequate notice and an opportunity to be heard, the town board may revoke the permit of any game room operator who:

- (1) Violates the provisions of sections 6-1044 or 6-1045; or
- (2) Is convicted of unlawfully selling alcoholic beverages or narcotic drugs. (Ord. of 12/6/82)

Section 6-1047 Areas of operation.

The establishment of a game room in the town within 500 feet of property on which a church or a school is located is prohibited. (Ord. of 5/4/87)

Section 6-1048 through 6-1050 reserved.

ARTICLE D
Street, Sidewalk and Itinerant Vendors

Section 6-1051 License Required.

It shall be unlawful for any vendor to sell, display or offer for sale any food, beverage, goods or merchandise without first obtaining a license from the town. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1052 Vendor defined.

Vendor shall mean any person, including an employee or agent of another, who sells or offers to sell food, beverages, goods or merchandise on any public street or sidewalk from a stand, motor vehicle or from his or her person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, goods or merchandise. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1053 Application.

The application for a vendor's license shall contain all information relevant and necessary to determine whether a particular license may be issued, including but not limited to:

- (a) Proof of the identity and business address of the applicant;
- (b) A brief description of the nature, character and quality of the food, beverages, goods or merchandise to be sold;
- (c) If employed by another, the name and business address of the person, firm, association, organization, company or corporation;
- (d) If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number;
- (e) A description of the place where the applicant intends to conduct the vending business and the length of time during which it is proposed that the business shall be conducted. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1054 Fees.

An applicant for a license under this Article shall pay a biannual license fee of \$25 per vendor.

(Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1055 Insurance.

No license shall be issued to an applicant unless the applicant furnishes proof to the town of a public liability bond or insurance policy in an amount not less than \$50,000 for property damage and injuries, including injury resulting in death, caused by the operation of the vending business. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1056 Licenses and Identification Badges.

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(a) The license issued to a vendor shall be carried with the vendor while he or she is engaged in the business of vending.

(b) In addition to the license, the town shall issue an identification badge to every vendor. Vendors shall wear their badges in such a way that the badges may be easily read while doing business. If a badge becomes damaged or obscured, the vendor shall return it to the town and receive another badge.

(c) Licenses and identification badges shall be used only by the person to whom they were issued and may not be transferred to any other person.

(d) Licenses shall be valid for a period of six (6) months from the date the license is issued. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1057 Hours of Operation.

Vendors shall be allowed to engage in business of vending only between seven o'clock (7:00) a.m. and nine o'clock (9:00) p.m. except that those vendors who conduct their business by going door-to-door shall be allowed to operate only between nine o'clock (9:00) a.m. and five o'clock (5:00) p.m. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1058 Suspension or Revocation of License.

(a) Any license issued under this Article may be suspended or revoked for any of the following reasons:

- (1) Fraud or misrepresentation in the application for the license;
- (2) Fraud or misrepresentation in the course of conducting the business of vending;
- (3) Conducting the business of vending contrary to the conditions of the license;
- (4) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension or revocation, the town shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1059 Appeals.

Persons who are denied licenses or whose licenses have been suspended or revoked may appeal by filing a written notice of appeal with the Town Council. The appeal must be filed within ten (10) days after receipt of the notice of denial, suspension or revocation. The Town Council shall hear and determine the appeal and the decision of the Council shall be final. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1060 Renewals.

Application for renewal of licenses shall be received thirty (30) days prior to expiration of the current license. Applications received after that date shall be processed as new applications. The town shall review each application of renewal to determine that:

- (a) The applicant is in full compliance with the provisions of this Article;

(b) The applicant has a currently effective insurance policy in the minimum amount provided for in section 6-1055. If the town finds that the application meets the above requirements, the town shall issue a new license. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1061 Exemptions.

The provisions of this Article shall not apply to bona fide members of charitable, religious, civic or fraternal organizations which are exempt from the payment of privilege licenses, and who receive no compensation of any kind for their services or to vendors selling at events which are approved by or conducted under the auspices of the town, such as the Festival of the Glorious Return. (Ord. of 5/6/90; Ord. of 10/2/95)

Section 6-1062 through 6-1070 reserved.

ARTICLE E
Transient Amusements

Section 6-1071 License required to operate circus, carnival or similar public entertainment, or mechanical ride.

No person shall exhibit, show, conduct or operate at any place in the town, or cause or permit to be exhibited, shown, conducted or operated in any place within the town or on any property owned, leased or controlled by him, any circus, carnival or outdoor show, or other similar public entertainment, or any merry-go-round, ~~ferris~~-Ferris wheel, airplane ride, or any other type of mechanical ride or any type of mechanical amusement, unless the same shall have been licensed according to the provisions of this article.

Section 6-1072 Application for license; con-sideration thereof; issuance of license.

Any and all persons desiring to operate a circus, carnival, outdoor show, or any other similar public entertainment, or a merry-go-round, ~~ferris~~-Ferris wheel, or other mechanical ride, shall first make application to the council, upon a form or forms prescribed by the council at least 60 days prior to the opening date thereof. The council shall consider said application or applications and direct that the same be granted or refused, and if granted a license shall be duly issued, which license shall be signed by the mayor.

Section 6-1073 Information given on application.

The application shall contain the name and residence of the person to whom the same shall be issued and shall contain a complete description of the type of show, rides, and other amusements to be offered, as well as the place upon which the same shall be held.

Section 6-1074 Grounds for denial of license.

The council may refuse the issuance of such license on account of the existence of any unsanitary, hazardous or dangerous condition or because the location is deemed to be unsuitable, or on account of the creation of a traffic hazard, or for the lack of accommodations for the number of persons or vehicles likely to be attracted thereto.

Section 6-1075 License issued without payment of fee.

No fee shall be charged for the license.

Section 6-1076 Inspections by mayor and police; suspension of license for unsanitary, dangerous or hazardous conditions; non-liability of mayor or police.

After a license shall be granted under this article, officials of the town shall inspect the premises and installations made thereon in order to determine the existence of unsanitary, dangerous or hazardous conditions, and if the same shall exist the council shall have the authority to suspend the license and prohibit said circus, carnival or other outdoor show to continue, or may suspend the operation of any mechanical ride or rides, or mechanical amusements, if the same shall be deemed unsanitary, dangerous or hazardous per se, which

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suspension shall continue in effect until said unsanitary, dangerous or hazardous condition shall be eliminated.

Section 6-1077 Disorderly or immoral conduct; sale of obscene material; indecent, immoral or lewd performances prohibited.

No person granted a license under this article shall permit any disorderly or immoral conduct upon the premises for which such license shall have been granted, or the sale of any obscene literature or pictures, or any indecent, immoral or lewd act or performance upon the premises.

Section 6-1078 Suspension or revocation of licenses.

The mayor is hereby authorized to suspend or revoke any license granted under this article in case of failure to maintain proper standards of safety and sanitation, and in case the licensee shall permit the sale of any obscene literature or pictures of any indecent, immoral or lewd act or performance.

Section 6-1079 Certificate of public liability insurance to be filed in ad-vance.

The sponsor of any circus, carnival or outdoor show or other similar public entertainment, or the owner or operator thereof, or the operator of any mechanical ride of any type, shall file with the town at least 10 days prior to the opening of said circus, carnival or outdoor show, or the operation of any merry-go-round, ~~ferris~~-Ferris wheel, airplane ride or any other type of mechanical ride, or any type of mechanical amusement, a certificate of public liability insurance in the sum of \$50,000 to \$100,000. The filing of said certificate of public liability insurance shall be a condition precedent to the opening of the circus, carnival or outdoor show, or other similar public entertainment, or the operation of any merry-go-round, ~~ferris~~-Ferris wheel, airplane ride, or any other type of mechanical ride or mechanical amusement. No circus, carnival or outdoor show, or any mechanical ride or mechanical amusement shall be permitted to perform or operate unless said certificate of insurance is first provided as set forth herein.

Section 6-1080 Licenses given only to local non-profit organizations.

Applications for licenses to conduct the activities described herein shall be considered only if the organization sponsoring such activities is a non-profit organization and is located in Burke County.

ARTICLE F
Junk Dealers

Section 6-1081 Definitions.

The following words and phrases shall, for the purpose of this article, have the meanings respectively ascribed to them:

(1) Junk. Any worn out, discarded, or old iron, other metal, automobiles parts, chain, copper, parts of machinery, automobile tires, appliances, or old wrecked, or unusable automobiles and trucks, and other articles commonly known as junk.

(2) Junk yard. Any area larger than 100 feet by 100 feet in which junk is stored or permitted to accumulate. (Ord. of 10/2/67, Sec. 1)

Section 6-1082 Permit required.

Any person who shall engage in the business of buying, selling, handling, storing or hauling junk shall first obtain a permit therefor and shall pay for such permit a fee to be established by the council.

Section 6-1083 Application for permit.

Application for a permit to engage in the junk business shall be made to the building inspector and shall state the place where the business is to be conducted and that the terms of this article shall be met. (Ord. of 10/2/67, Sec. 1)

Section 6-1084 Issuance of permit.

The building inspector shall issue a permit to engage in the junk business to the applicant therefor if it shall appear that the location of the junk yard shall not constitute a fire hazard or other hazardous condition to any adjacent property. (Ord. of 10/2/67, Sec. 1)

Section 6-1085 Records required.

Any person or corporation operating or maintaining a junk yard shall keep records on each article of junk, which will show the following:

- (1) Description of junk.
- (2) Person or corporation from whom obtained.
- (3) Serial or motor number, if any. (Ord. of 10/2/67, Sec. 1)

Section 6-1086 Maintenance of records.

The records required to be kept by junk dealers shall not be destroyed until three (3) years of age and shall be available for inspection by the building inspector or chief of police at reasonable times. (Ord. of 10/2/67, Sec. 1)

Section 6-1087 Enclosure required.

All junk yards shall be enclosed by a wire or metal fence of a minimum height of six (6) feet, protected by gates which may be locked, and shall be locked when an attendant is not

present. The plans for construction of the fence and gates shall be first submitted to the building inspector and approved by him. (Ord. of 10/2/67, Sec. 1)

Section 6-1088 Accessory buildings.

Nothing but automobile dismantling shall be carried on in any automobile or truck junk yard, and if repairs are made at or in any junk yard to automobiles or trucks, such repairs shall be made in a building meeting all the applicable provisions of this Code and state law. (Ord. of 10/2/67, Sec. 1)

Section 6-1089 Burning prohibited.

No junk or any vehicle, including automobiles and trucks, shall be burned in or on any premises occupied as a junk yard. (Ord. of 10/2/67, Sec. 1)

Section 6-1090 Combustible materials.

(a) Gas and oil and all other combustible materials shall be stored in a building of fireproof construction, which shall be constructed in full compliance with all applicable provisions of this Code and state law.

(b) Upon being stored or placed in the junk yard, all gas and oil shall be drained from vehicles and stored. (Ord. of 10/2/67, Sec. 1)

Section 6-1091 Unlawful for unlicensed persons to keep junk; penalty.

(a) It shall be unlawful for any person other than licensed junk dealers, to place, keep, store, or otherwise allow any worn out, discarded, or old iron, other metal, automobile parts, chain, copper, parts of machinery, automobile tires, appliances, or old wrecked, or unusable automobiles and trucks, and other articles commonly known as junk.

(b) In event any of the above described junk shall be left upon the premises located within the town, the town may at its option cause the same to be removed after serving the property owner or parties in charge of the property with a written notice, 10 days in advance of the removal of the same, that the town does intend to remove said junk in accordance with this article. (Ord. of 10/2/67, Sec. 1)

Section 6-1092 through section 6-1110 reserved.

CHAPTER 2
Street and Sidewalk Use And Regulation

ARTICLE A**Obstructing**

- Section 6-2001 Assembly on sidewalk.
- Section 6-2002 Display of goods prohibited.
- Section 6-2003 Placing objects on streets and sidewalks.
- Section 6-2004 Construction near sidewalk.
- Section 6-2005 Structures and appurtenances over sidewalks.
- Section 6-2006 Skating on sidewalk prohibited except in residential area.
- Section 6-2007 Signs over sidewalks regulated.
- Section 6-2008 Obstructions generally.
- Section 6-2009 Gates opening on streets or sidewalks.
- Section 6-2010 Injuring, defacing, etc., street or sidewalk.
- Section 6-2011 Injuring trees, shrubs or flowers.
- Section 6-2012 Injuring, destroying, etc., lights, etc.; removing sand, stone or turf from street.
- Section 6-2013 Poles and wires generally - permit required for placing poles.
- Section 6-2014 Same; when permit not to be issued.
- Section 6-2015 Same; use of poles of others.
- Section 6-2016 Same; care and inspection of poles.
- Section 6-2017 Same; use of poles and conduits for town purposes.
- Section 6-2018 Advertising on streets, etc., generally; noise.
- Section 6-2019 Marking or painting on streets and sidewalks.
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ARTICLE B**Use and Cleanliness**

- Section 6-2021 Littering prohibited.
- Section 6-2022 Same; from vehicles.
- Section 6-2023 Same; violation.
- Section 6-2024 Maintenance of public areas.
- Section 6-2025 Same; receptacles.
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- Section 6-2031 Definitions.
- Section 6-2032 Permit required.
- Section 6-2033 Standards.
- Section 6-2034 Requirements and issuance of permits.

Section 6-2035 Certain activities prohibited.

Section 6-2036 Revocation of permit.

Section 6-2037 Interference prohibited.

Section 6-2038 Additional regulations applicable to picketing.

Section 6-2039 Exceptions.

Section 6-2040 reserved.

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ARTICLE A
Obstructing

Section 6-2001 Assembly on sidewalk.

Except as provided in Article C of this chapter, all persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street, and all persons so collecting and standing shall disperse and move upon the demand of any police officer.

Section 6-2002 Display of goods prohibited.

No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of said town, which shall extend out on the sidewalks.

Section 6-2003 Placing objects on streets and sidewalks.

No brick, stone or wood or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alley ways, streets or other routes of the town, nor shall any person place on or in any of the streets, sidewalks or alley ways of the town any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind. Provided that any person erecting a building, may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

Section 6-2004 Construction near sidewalk.

Before building or remodeling at any place where the same is in close proximity to the sidewalk an overhead covered passage way shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

Section 6-2005 Structures and appurtenances over sidewalks.

No person shall erect over any sidewalk or street any part of a building except marquees and signs, which are approved by the building inspector. Awnings may be attached to buildings provided they are supported upon metallic frames and at least eight (8) feet above the level of the sidewalk.

Section 6-2006 Skating on sidewalk prohibited except in residential area.

It shall be unlawful for any person to skate on the streets and sidewalks in the business section of the town, or on any other street or highway other than on sidewalks in residential sections.

Section 6-2007 Signs over sidewalks regulated.

It shall be unlawful to hang or suspend any sign over or above the sidewalks or streets at less than eight (8) feet from the ground over the sidewalk and less than 15 feet from the ground above the street, and such sign shall be kept securely fastened at all times. (Code 1970, Sec. 17-3)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 6-2008 Obstructions generally.**

It shall be unlawful to build, erect, construct or place any porch, steps, fence, wall or other obstruction whatsoever in or over any of the streets or sidewalks right-of-way; and it shall be unlawful to obstruct any sidewalk or street with any wheelbarrow, automobile, truck or other vehicle, railroad car, chair, bench, open gate, chicken coop, box or other article; provided, further, that this section shall not apply to baby carriages and invalid chairs rolled on the sidewalk in such manner as not to obstruct the same; provided further, that this section shall not apply to benches erected by the town.

Section 6-2009 Gates opening on streets or sidewalks.

No gate to any residence, lot or other enclosure shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street shall constitute a separate offense. (Code 1970, Sec. 17-6)

Section 6-2010 Injuring, defacing, etc., street or sidewalk.

No person shall injure, deface or mar in any manner whatsoever any of the streets or sidewalks. The town shall have the right and privilege to repair any such injury, defacement or mar and assess the costs thereof against the offender. (Code 1970, Sec. 17-7)

Section 6-2011 Injuring trees, shrubs or flowers.

It shall be unlawful to pull down, cut, deface with signs, break or in any way injure any of the trees, shrubs or flowers on the streets, parks or squares. (Code 1970, Sec. 17-8)

Section 6-2012 Injuring, destroying, etc., lights, etc.; removing sand, stone or turf from street.

No person shall break, destroy or in any manner injure any light, pump, well or tree in any street or public place, or deface, or in any manner injure, any building belonging to the town, nor remove any pavement, sand, stone or turf from any street without the permission of the manager. (Code 1970, Sec. 17-9)

Section 6-2013 Poles and wires generally - permit required for placing poles.

No poles for electric, telegraph, telephone or other purposes shall be placed on any street without a permit therefor being obtained from the town. (Code 1970, Sec. 17-18)

Section 6-2014 Same; when permit not to be issued.

No permit shall be issued for the erection of poles on any street in contravention of the provisions of section 4-1007, 4-1008 and 4-1009, or where there exists a line of poles on such street for the purpose of supporting electric, telephone or telegraph wires. (Code 1970, Sec. 17-19)

Cross Reference: Sections 4-1007, 4-1008 and 4-1009 provide for underground placement of utilities.

Section 6-2015 Same; use of poles of others.

(a) Whenever any electric, telephone or telegraph company shall desire to place lines or wires along any particular street upon which it does not have a lien of poles, but upon which street there exists a line of poles owned by another company, then such companies may maintain their wires upon the same poles; provided, that such placement or maintenance does not violate the provisions of section 4-1008 et seq.

(b) If an agreement cannot be reached between the companies owning the poles and the companies desiring to place wires thereon, then such companies may submit the question of compensation to three (3) disinterested persons for arbitration, or they may submit the same to the board for determination. This section shall apply to poles owned by the town as well as poles owned by companies operating under franchises from the town. (Code 1970, Sec. 17-20)

Section 6-2016 Same; care and inspection of poles.

It shall be the duty of the owners of all poles supporting electric, telephone or telegraph wires, to keep the same in a safe condition, and for that purpose inspect the same once every three (3) months. (Code 1970, Sec. 17-21)

Section 6-2017 Same; use of poles and conduits for town purposes.

One duct in all underground conduit systems shall be provided for the town free of charge for the town's police or fire alarm telegraph system when required, and the town shall have the use of all poles on streets for the same purposes. (Code 1970, Sec. 17-22)

Section 6-2018 Advertising on streets, etc., generally; noise.

No person shall advertise any article of any kind for sale by crying out the same on the streets or sidewalks. No person shall advertise any article of any kind, or any event of any kind, by crying out the same or by using therefor any megaphone, bell, horn or other noise making device on any street or sidewalk. (Code 1970, Sec. 3-1)

Section 6-2019 Marking or painting on streets or sidewalks.

It shall be unlawful to advertise, or attempt to advertise, by marking or painting on any of the streets or sidewalks. (Code 1970, Sec. 3-2)

Section 6-2020 reserved.

CONFIDENTIAL ATTORNEY WORK PRODUCT**ARTICLE B**
Use and Cleanliness**Section 6-2021 Littering prohibited.**

It shall be unlawful for any person, firm, or organization or private corporation to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of such private property any trash, refuse, garbage, building material, cans, bottles, broken glass, paper, or any type of litter.

Section 6-2022 Same; from vehicles.

It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other private place within the town or upon private property.

Section 6-2023 Same; violation.

~~Any person found guilty of violating sections 6-2021 and 6-2022 shall be guilty of a misdemeanor and shall be fined not more than \$50, or imprisoned for not more than 30 days. Any person found guilty of violating sections 6-2021 and 6-2022 shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less. Any person violating any of the provisions of this article shall become liable to the town for any expense, loss, or damage occasioned the town by reason of such violation.~~

Section 6-2024 Maintenance of public areas.

Every owner, lessee, tenant, occupant, or person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as an access area incidental to the carrying on of the principal business of any such commercial establishment or premises and which parking or access areas abut or lie within 10 feet of any public street or other public way, shall keep and maintain such areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast upon such street or other public way.

Section 6-2025 Same; receptacles.

Suitable receptacles shall be provided in all parking or access areas within the meaning of section 6-2024 hereof. Such receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish or other material deposited therein.

Section 6-2026 Same; violation.

Any owner, lessee, tenant, occupant or person in charge of any commercial establishment or premises who fails to abide by the provisions of section 6-2024 and 6-2025 shall be subject to a penalty of \$50 in addition to the penal provisions of state law for violations of municipal ordinances.

Section 6-2027 through section 6-2030 reserved.

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ARTICLE C
Parades and Demonstrations

Section 6-2031 Definitions.

For the purpose of section 6-2031 through 6-2039 the following terms shall have the definitions ascribed:

(1) Block is that portion of any street lying between its intersections with other streets.

(2) Parade is any assemblage of two (2) or more persons participating in or operating any vehicle in any march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places.

(3) Person is any person, firm, corporation, partnership, association, or other organization, whether formal or informal.

(4) Picket line is any two (2) or more persons formed together for the purpose of making known any position or promotion of such persons, or on behalf of any organization or class of persons.

(5) Group demonstration is any assembly together or concert of action between or among two (2) or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention of such assembly.

Section 6-2032 Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line, or group demonstration in or upon any street, sidewalk, alley, or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this article.

Section 6-2033 Standards.

The chief of police shall not issue a permit for the proposed parade if he finds that:

(1) Such parades, picket lines or group demonstrations are to commence before six o'clock (6:00) a.m. or terminate after five o'clock (5:00) p.m., or,

(2) Such parades or group demonstrations are to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the chief of police or his designee; or,

(3) The conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route; or,

(4) The conduct of the parade will require the diversion of so great a number of police officers of the town to properly police the line of movement of the parade and of contiguous areas so that adequate police protection cannot be provided the remainder of the town; or,

(5) The conduct of the parade will require the diversion of so great a number of ambulances so that adequate ambulance service to portions of the town not occupied by the parade and contiguous areas will be prevented; or,

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(6) The concentration of persons, animals and vehicles at assembly points of the parade will substantially interfere with adequate fire and police protection of, or ambulance service to, areas contiguous to such assembly areas; or,

(7) The conduct of the parade is reasonably likely to result in violence to persons or property causing serious harm to the public; or,

(8) The parade is to be held for the primary purposes of advertising a product, good, or event, and is designed to be held primarily for private profit; or,

(9) The conduct of the parade will interfere with the movement of fire-fighting equipment to such an extent that adequate fire protection cannot be provided to the town.

Section 6-2034 Requirements and issuance of permits.

The chief of police or his designee shall issue permits as required in the preceding section, and in the issuance thereof he shall:

(1) Require a written application for permit to be filed not less than 24 hours in advance of such parade, picket line, or group demonstration which application shall specify the time and place for the commencement of any such picket line and the time, place, route, and duration of any such parade or group demonstration.

(2) Require that the application for a permit specify whether or not minors below the age of 16 years will be permitted to participate.

(3) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line, or group demonstration and shall carry such permit with him at that time. Such permit shall not be valid in the possession of any other person.

Section 6-2035 Certain activities prohibited.

The following acts or activities, when performed or undertaken in conjunction with or as a part of, any parade, picket line, or group demonstration, are hereby prohibited and declared unlawful:

(1) The carrying on or about the person any firearm, or any weapon or article, including but not limited to blackjacks, nightsticks, or flashlights which by their use might constitute a deadly weapon;

(2) The taking or keeping of any dog or other vicious animal, whether leased or unleashed.

Section 6-2036 Revocation of permit.

The chief of police shall revoke any permit granted for a parade, picket line, or group demonstration for any of the following causes:

(1) The violation by any participant of section 6-2035 of this article;

(2) The failure to comply with the terms and conditions of the permit.

Section 6-2037 Interference prohibited.

No person shall hamper, obstruct, impede, or interfere with any parade, picket line, or group demonstration being conducted under authority of a permit duly issued by the chief of police.

Section 6-2038 Additional regulations applicable to picketing.

Picket lines and picketing shall be subject to the following additional regulations:

- (1) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic;
- (2) Not more than 10 pickets promoting the same objective shall be permitted to use either of the two (2) sidewalks within a single block at any one time;
- (3) Pickets may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in length promoting the objective for which the picketing is done; provided, the words used are not derogatory or defamatory in nature;
- (4) Pickets must march in single file and not abreast and must not march closer together than 15 feet, except in passing one another.

Section 6-2039 Exceptions.

Section 6-2031 through 6-2038 shall not apply to:

- (1) Funeral processions;
- (2) Any governmental agency acting within the scope of its functions.

Section 6-2040 reserved.

PART 7
Motor Vehicles and Traffic

Chapter 1. General Traffic Regulations

CHAPTER 1

General Traffic Regulations

State Law Reference: Authority of municipality to regulate traffic is given by G.S. 160A-300. Motor vehicles generally, Chapter 20 of the General Statutes.

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Section 7-1023 Authority of police and fire department officials.

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Section 7-1039 Authority to establish play streets.

Section 7-1040 Traffic lanes.

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- Section 7-1101 Reckless driving, etc.
- Section 7-1102 Driving-through funeral processions.
- Section 7-1103 Limitations on backing.
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ARTICLE Q

Municipal Parking Lots

Section 7-1201 Parking prohibited between 9:00 a.m. and 4:00 a.m.

Section 7-1202 through section 7-1210 reserved.

ARTICLE R

Parking Meters

(Reserved)

ARTICLE S

Civil Penalties for Parking Violations

Section 7-1230 Civil penalty procedure.

Section 7-1231 Unauthorized removal of traffic citation from vehicle.

ARTICLE T

Vehicle Restrictions on Certain Streets

Section 7-1240 Truck tractors or semi-tractors or combinations thereof with a gross vehicle weight rating greater than five (5) tons.

ARTICLE A
Words and Phrases Defined

Section 7-1001 Definition of words and phrases.

The following words and phrases when used in this chapter shall, for the purpose of this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in any instance where otherwise specifically provided or where the context clearly indicates a different meaning.

- (1) Alley. A thoroughfare through the middle of a block.
- (2) Authorized emergency vehicle. Vehicles of the fire department, police vehicles, and such ambulances and emergency vehicles of municipal department or public service corporations as are designated or authorized by the chief of police.
- (3) Bicycle. Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is over 20 inches in diameter.
- (4) Block. A portion of any street located between any two (2) intersections of any two (2) streets or public alleyways next adjacent to each other.
- (5) Business district. The territory ~~contiguous~~contiguous to and including a highway, when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.
- (6) Commercial vehicle. Every vehicle designed, maintained, or used primarily for the transportation of property.
- (7) Controlled-access highway. Every highway, street, or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.
- (8) Crosswalk. That portion of any street or roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections. Any portion of a roadway or street distinctly indicated for pedestrian crossing ~~py~~by lines or other markings on the surface of such street or roadway.
- (9) Curb loading zone. A space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.
- (10) Driver. Every person who shall drive or who shall be in actual physical control of the operation of any vehicle.
- (11) Freight curb loading zone. A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight or passengers.
- (12) Intersection. The area embraced within the prolongation or connection of the lateral lines of the roadways of the two (2) highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two (2) roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway

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also includes two (2) roadways 30 feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection.

(13) Laned roadway. A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(14) Motorcycle. Every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

(15) Motor vehicle. Every vehicle which is self-propelled and every vehicle designed to run upon the streets which is pulled by a self-propelled vehicle.

(16) Official time standard. Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use in this town.

(17) Official traffic-control device. Any sign, signal, marking or device, not inconsistent with this chapter, placed or erected by authority of the governing body by a designated official having jurisdiction through authority given by the governing body, for the purpose of regulating, warning, prohibiting or guiding traffic upon the public streets and thoroughfares of the town.

(18) Official traffic signals. Any device, whether manually, electrically or mechanically operated, whereby traffic is alternately directed to stop and to proceed, or to turn, or to proceed with caution.

(19) Park. The standing of any vehicle, whether occupied or unoccupied, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or cargo.

(20) Passenger curb loading zone. A place adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

(21) Pedestrian. Any person afoot, partnership, association, or corporation.

(23) Police officer. Every peace officer of the town, including every employee of the town authorized and empowered to regulate traffic and to make arrests for any violations of the provisions of this chapter.

(24) Private road or driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(25) Public conveyance. Any vehicle other than a taxicab or railroad train for transporting persons for a fare.

(26) Residence district. The territory ~~contiguous~~contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or ~~resi-~~dences and buildings in use for business.

(27) Right-of-way. The privilege of the immediate use of the street or roadway.

(28) Roadway. That portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways, the term "roadway" as used herein shall refer to any such roadways separately but not to all such roadways, collectively.

(29) Safety zone. The area or space ~~officially~~officially set apart within any roadway for the exclusive use of pedestrians and which space shall be so protected or marked or

indicated by visible and adequate markers or signs as shall be visible at all times while so set apart as a safety zone for pedestrians.

(30) Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(31) Standing. Any stopping of any vehicle, whether or not the vehicle is occupied during such period of stopping.

(32) Stop. When required means the complete cessation of movement of any vehicle.

(33) Stop or stopping. When prohibited, means any stopping of any vehicle, except when such stopping means that it shall be necessary to stop such vehicle to avoid conflict with other traffic or in compliance with direction of any peace officer of the town or by reason of any traffic-control sign or signal or by reason of any emergency.

(34) Street and highway. The entire width between property lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic.

(35) Through highway. Every street or highway or portion thereof at the entrances to which vehicular traffic from intersecting streets or highways is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

(36) Traffic. Pedestrians, ridden or herded animals, vehicles of all kinds, conveyances, tractors, bicycles, motorcycles and the like, either singly or together, while using any street or alleyway for travel, including the operation of, the loading or unloading of or the parking of any vehicle upon any of the public streets of the town.

(37) Traffic bureau. The traffic division of the police department of this town or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of this town.

(38) Truck. A free-wheeled vehicle having dual tires on one or more axles, or having more than two (2) axles, designed for the transportation of cargo rather than passengers. Includes tractor-trucks, trailers and semitrailers when used in combination. Excludes those two-axle, four-tired vehicles that may be ~~classified~~classified as a truck for registration purposes, but which have operating characteristics similar to those of a passenger car.

(39) Vehicle. Every device used in, upon, or by which any person or property is or may be transported or drawn upon any street within the corporate limits, and for the purposes of this chapter any bicycle shall be deemed a vehicle.

Section 7-1002 through section 7-1010 reserved.

ARTICLE B
Traffic Administration

Section 7-1011 through section 7-1020 reserved.

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ARTICLE C
Enforcement and Obedience to Traffic Regulations

Section 7-1021 Application of chapter to person riding, propelling, etc., pushcarts, tractors, trailers, carts, animals, etc.

Every person operating, riding, propelling or driving any pushcart, tractor, trailer, bicycle, buggy, cart or other type of machine or conveyance or any person riding or driving or leading an animal upon any of the public streets of the town shall be subject to the provisions of this chapter, except those provisions of this chapter which by their very nature can have no application.

Section 7-1022 Public employees to obey traffic regulations.

The provisions of this chapter applicable to the drivers of vehicles upon streets shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state or any other state, or any county or city. It shall be unlawful for any such driver to violate any such provisions of this chapter, except as otherwise permitted in this chapter or by state statute.

Section 7-1023 Authority of police and fire department officials.

(a) It shall be the duty of the officers of the police department or such officers as are assigned by the chief of police to enforce all street traffic laws and all of the state vehicle laws applicable to street traffic.

(b) Officers of the police department or such officers as are assigned by the chief of police are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws, provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

Section 7-1024 Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

Section 7-1025 Use of roller skates, roller blades, skateboards, scooters, and other similar devices restricted.

(a) No person ride or use roller skates, roller blades, skateboards, scooters, or similar devices upon any public street, public vehicular area as that term is defined by G.S. 20-4.01(32), or public sidewalk located in the central business district, general business district, or office-institutional district. This section shall not apply to bicycles, which are governed by Sections 7-1121 through 7-1140 of this chapter.

(b) No person shall ride or use roller skates, roller blades, skateboards, scooters, or similar devices upon any public sidewalk in a reckless manner or without exercising due care for the

safety of other persons using the sidewalk. Any person riding or using roller skates, roller blades, skateboards, scooters, or similar devices on a sidewalk shall yield the right-of-way to pedestrians.

(c) Notwithstanding the foregoing, the Chief of Police is hereby authorized and empowered specifically to designate from time to time certain public streets or portions thereof upon which persons may be permitted to ride or use roller skates, roller blades, skateboards, scooters, or similar devices under such rules and regulations as may be prescribed by the Chief of Police to insure the public safety.

(d) In the event of a violation of any of the provisions of this section by a minor, a police officer may issue a courtesy notice in writing to the parent or guardian of such minor setting out the date and nature of the offense. Thereafter, each violation of a provision of this section by the minor shall subject the parent or guardian of the minor to whom the courtesy notice was issued to a civil penalty of \$50.

(e) A violation of any of the provisions of this section (with the exception of paragraph (d)) shall be punishable as provided in Section 1-1005. A violation of any of the provisions of this section (with the exception of paragraph (d)) shall also subject the offender to a civil penalty of \$50 for each violation. The town may seek to enforce the provisions of this section (with the exception of paragraph (d)) by using either one or a combination of the foregoing. Paragraph (d) may be enforced only by civil penalty as provided in that paragraph.

(f) If any offender fails to pay a civil penalty provided in this section within twenty (20) days after being cited for a violation and notified of the penalty, the offender shall be subject to an additional civil penalty of \$25. If any offender fails to pay a civil penalty provided in this section within twenty (20) days after being cited for a violation and notified of the penalty, the town may seek to collect it and the additional \$25 penalty in a civil action in the nature of debt. (Ord. of 4/1/02)

Cross Reference: For provisions on play streets, see section 7-1039 of this chapter..

Section 7-1026 Authorized emergency vehicles.

(a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

(b) The driver of an authorized emergency vehicle may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the prima facie speed limits so long as he does not endanger life or property;
- (4) Disregard regulations governing direction of movement or turning in specified directions.

(c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of said vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a light visible under normal atmospheric conditions from

a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a light visible from in front of the vehicle.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of this reckless disregard for the safety of others.

Section 7-1027 through section 7-1030 reserved.

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ARTICLE D
Traffic-Control Devices

Section 7-1031 Obedience to signs, etc., generally.

~~Any person failing or refusing to comply with the directions indicated on any sign, marker or device for the control or direction of traffic erected or placed in accordance with the provisions of this chapter when so placed or erected shall be guilty of a misdemeanor. This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer or when an exception is granted to the driver of an authorized emergency vehicle under section 7-1026.~~ Any person failing or refusing to comply with the directions indicated on any sign, marker or device for the control or direction of traffic erected or placed in accordance with the provisions of this chapter when so placed or erected shall be guilty of an infraction as provided by G.S. 14-4(b) and shall be required to pay a penalty of not more than fifty dollars (\$50.00). This section shall not be construed to apply when the driver of a vehicle is otherwise directed by a police officer or when an exception is granted to the driver of an authorized emergency vehicle under section 7-1026.

Section 7-1032 Signs as prerequisite to enforcement.

No provisions of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person. Whenever any particular section in this chapter does not state that signs are required, such section shall be effective without signs being placed to give notice thereof.

Section 7-1033 Specifications for traffic; control devices.

All traffic-control signs, signals, and devices shall conform to state regulations. All signs and signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article shall be official traffic-control devices.

Section 7-1034 Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals (Appendix I, section 135) exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and said terms and light shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green alone or "Go."

a. Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

b. Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Yellow alone or "Caution" when shown following the green or "Go" signal.

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a. Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

b. No pedestrian facing such signal shall enter the roadway until the green or "Go" is shown alone unless authorized so to do by a pedestrian "Walk" signal.

(3) Red alone or "Stop."

a. Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that if a sign is not erected prohibiting turns on red lights, the vehicles may turn right on red lights after coming to a complete stop. Streets on which right turns on red are allowed are set out in Appendix I, section 131 hereof.

b. No pedestrian facing such signal shall enter the roadway until the green or "Go" is shown alone unless authorized so to do by a pedestrian "Walk" signal.

(4) Red with green arrow.

a. Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

b. No pedestrian facing such signal shall enter the roadway until the green or "Go" is shown alone unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

Section 7-1035 Pedestrian control signals.

Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:

(1) "Walk." Pedestrians facing such signals may proceed across the highway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

(2) "Don't Walk." No pedestrian shall start to cross the highway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "Walk" signal shall proceed to a sidewalk or safety island while the "Don't Walk" signal is showing.

Section 7-1036 Flashing signals.

Whenever flashing red or yellow signals are used, they shall require obedience by vehicular traffic as follows:

(1) Flashing red (stop signal). When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall come to a complete stop before entering the nearest crosswalk at an intersection or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign. In no event shall such vehicle be driven

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into such crosswalk unless and until such entry can be made with safety to other persons and property at such place.

(2) Flashing yellow (caution signal). (Appendix I, section 137). When a yellow lens is illuminated with rapid intermittent flashes, drivers or operators of vehicles may proceed through such intersection past such signal only with caution.

Section 7-1037 Display of unauthorized signs, signals, or markings.

(a) No person shall place, maintain, or display upon or in view of any highway any unauthorized sign, signal, marking, or device which purports to be or is imitation of or resembles an official traffic-control device, sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device, sign or signal.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.

(c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.

(d) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

Section 7-1038 Interference with official traffic-control devices, signs or signals.

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device, sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

Section 7-1039 Authority to establish play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

Section 7-1040 Traffic lanes.

Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

Section 7-1041 Zone of quiet.

Whenever authorized signs are placed indicating a zone of quiet, the person operating a motor vehicle within such zone shall not sound the ~~horn~~ horn or any other warning device, except in an emergency.

Section 7-1042 School zones.

Whenever authorized signs are placed designating any street, or part thereof, as a school zone, drivers of motor vehicles using said street, shall exercise the greatest care for the protection of children.

Section 7-1043 Yield signs.

Whenever yield right-of-way signs are used they shall require vehicular traffic to yield the right-of-way to other- ~~interseding~~interceding traffic from secondary other road or street. Yield right-of-way signs shall be located at the streets designated in Appendix I, section 132, hereby made a part hereof.

Section 7-1044 through section 7-1050 reserved.

ARTICLE E
Speed Regulations

Section 7-1051 General.

Except as otherwise provided in this article, it shall be unlawful to operate a vehicle in excess of 35 miles per hour inside the municipal corporate limits.

Section 7-1052 Exceptions.

(a) It shall be unlawful to operate a vehicle in excess of the speeds listed below upon the streets or portions of streets of the state highway system listed in each designated Appendix hereby made a part hereof:

- (1) Twenty miles per hour (Appendix I, section 115)
- (2) Twenty-five miles per hour (Appendix I, section 116)
- (3) Thirty miles per hour (Appendix I, section 117)
- (4) Forty miles per hour (Appendix I, section 118)
- (5) Forty-five miles per hour (Appendix I, section 119)
- (6) Fifty miles per hour (Appendix I, section 120)
- (7) Fifty-five miles per hour (Appendix I, section 121)

(b) It shall be unlawful to operate a vehicle in excess of the speeds listed below upon the streets or portions of streets, nor a part of the State Highway System, listed in each designated Appendix, hereby made part hereof:

- (8) Twenty miles per hour (Appendix I, section 122)
- (9) Twenty-five miles per hour (Appendix I, section 123)
- (10) Thirty miles per hour (Appendix I, section 124)
- (11) Forty miles per hour (Appendix I, section 125)
- (12) Forty-five miles per hour (Appendix I, section 126)
- (13) Fifty miles per hour (Appendix I, section 127)
- (14) Fifty-five miles per hour (Appendix I, section 128)

(c) In those areas marked as school zones, it shall be unlawful to operate a vehicle in excess of the speeds indicated as provided in Appendix I, section 139, hereby made a part hereof.

Section 7-1053 Driving at reduced speeds.

(a) ~~No person shall drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of willful disobedience of this provision and refusal to comply with the direction of an officer in accordance herewith, the continued slow operation by a driver shall be a misdemeanor.~~ No person shall drive a motor vehicle at such slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with law. Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of willful

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disobedience of this provision and refusal to comply with the direction of an officer in accordance herewith, the continued slow operation by a driver shall be a an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00).

(b) ~~Every person convicted of olating any of the provisions of the speeds set forth in this section shall be guilty of a misdemeanor. (Code 1970, Sec. 11-2(d))~~ A violation of any of the provisions of the speeds set forth in this section shall be an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00).

Section 7-1054 through section 7-1060 reserved.

ARTICLE F Turning Movements

Section 7-1061 Required position and method of turning at intersections.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

Section 7-1062 Turning markers.

When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be traveled by vehicles turning thereat, no driver of a vehicle shall disobey the directions of such indications.

Section 7-1063 Authority to place restricted turn signs.

The board shall determine those intersections at which drivers of vehicles shall not make a right, left, or U-turn and shall place proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. Restrictions on turning movements shall be as specified in Appendix I, sections 111 through 114, hereby incorporated herein.

Section 7-1064 Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

Section 7-1065 Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street so turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

Section 7-1066 through section 7-1070 reserved.

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ARTICLE G
One-way Streets and Alleys

Section 7-1071 Authority to sign one-way streets and alleys.

Whenever any ordinance designates any one-way street or alley there shall be signs giving notice thereof, and no such regulation shall be effective unless such signs are in place. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

Section 7-1072 One-way streets and alleys.

Upon those streets and parts of streets and in those alleys described in Appendix I, section 110, hereby made a part hereof, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

Section 7-1073 through section 7-1080 reserved.

ARTICLE H Special Stops Required

Section 7-1081 Through streets designated.

Those streets and parts of streets described in Appendix I, section 108, hereby made a part hereof, are declared to be through streets for the purpose of this article.

Section 7-1082 Authority to erect stop signs.

Whenever any ordinance designates and describes a through street, there shall be a stop sign on each and every street intersecting such through street or intersecting portion thereof described and designated as such by any ordinance unless traffic at any such intersection is controlled at all times by traffic-control signals; provided, however, that at the intersection of two (2) such through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets.

Section 7-1083 Intersections where stop required.

The board may determine and designate intersections where particular hazard exists upon other than through streets and may determine whether vehicles shall stop at one or more entrances to any such stop intersection, and shall erect a stop sign at every such place where a stop is required. Such places are specified in Appendix I, section 109, hereby made a part hereof.

Section 7-1084 Signs to bear the word "Stop."

Every sign erected pursuant to this article shall bear the word "Stop" in letters not less than eight (8) inches in height and such signs shall at nighttime be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign. Every stop sign shall be located as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if none, to the nearest line of the roadway.

Section 7-1085 Vehicles to stop at stop signs.

When stop signs are erected as herein authorized at or near the entrance to any intersection, every driver of a vehicle shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

Section 7-1086 Emerging from alley, driveway, or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway, or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, yielding the right-of-way

to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

Section 7-1087 Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians notwithstanding any traffic-control signal indication to proceed.

Section 7-1088 through section 7-1090 reserved.

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ARTICLE I
Miscellaneous Driving Rules

Section 7-1091 Hitchhiking.

It shall be unlawful for any person to stand in the streets and solicit rides from the drivers of any passing vehicles. (Code 1970, Sec. 11-3)

Section 7-1092 Boarding or alighting from vehicle in motion.

No person shall board, or alight from, any vehicle while the vehicle is in motion. (Code 1970, Sec. 11A)

Section 7-1093 Riding on vehicle or portion thereof not designed, etc., for passengers.

No person shall ride on any vehicle, or any portion of a vehicle, not designed or intended for use of passengers; provided, however, that this provision shall not be construed to apply to any employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise. (Code 1970, Sec. 11-5)

Section 7-1094 Unauthorized entering, etc., of vehicles.

No person shall enter, jump on or ride any vehicle without the consent of the owner or driver of such vehicle. (Code 1970, Sec. 11-6)

Section 7-1095 Riding inside vehicles; hanging on vehicles.

No person when riding in a vehicle shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as are by law required. No person shall hang onto any vehicle whatsoever. (Code 1970, Sec. 11-7)

Section 7-1096 Limitation on number of persons in front seat.

It shall be unlawful for the driver, or the person in charge, of any motor vehicle to permit more than three (3) persons, including the driver, to ride in the front, or driver's seat of a motor vehicle. (Code 1970, Sec. 11-8)

Section 7-1097 Clinging to moving vehicles while riding bicycle, etc.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates or any toy vehicle shall not attach the same, or himself, to any moving vehicle upon any roadway. (Code 1970, Sec. 11-9)

Section 7-1098 When passing on the right is permitted.

The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is in a lane designated for left turns;

(2) Upon a street or highway with unobstructed pavement of sufficient width which has been marked for two (2) or more lanes of moving vehicles in each direction and which are not occupied by parked vehicles;

(3) Upon a one-way street, or upon a street or highway on which traffic is restricted to one direction of movement when such street or highway is free from obstructions and is of sufficient width and is marked for two (2) or more lanes of moving vehicles which are not occupied by parked vehicles;

(4) When driving in a lane designating a right turn ~~to~~ on a red traffic signal light. (Code 1970, Sec. 11-15)

Section 7-1099 Driver to give way to overtaking vehicle.

The driver of a vehicle about to be overtaken and passed by another vehicle approaching from the rear shall, unless the overtaking and passing is being made upon the right as permitted in section 7-1098, give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle. In any event the driver of the overtaken vehicle shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Code 1970, Sec. 11-16)

Section 7-1100 Following too closely.

The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, with regard for the safety of others and due regard to the speed of such vehicles and the traffic upon and condition of the street or highway. (Code 1970, Sec. 11-17)

Section 7-1101 Reckless driving, etc.

It shall be unlawful for any person to operate a motor vehicle upon the streets of the town in a reckless manner or at a rate of speed greater than is reasonable and proper, having regard to the width, traffic and use of the street; provided, that such rate of speed shall not exceed the maximum speed limits established by sections 7-1051 and 7-1052.

Section 7-1102 Driving through funeral processions.

No driver of a vehicle shall drive through a funeral procession; provided, however, that this shall not be construed to apply to fire department vehicles, police patrols and ambulances, when responding to calls. (Code 1970, Sec. 11-25)

Section 7-1103 Limitations on backing.

The driver of a vehicle shall not back the same into any intersection, or over a crosswalk, and shall not in any event, or at any place, back a vehicle unless such movement can be made in safety, and he shall have given ample warning to those who may be behind, by hand and horn or other signal. (Code 1970, Sec. 11-26)

Section 7-1104 Emerging from alley or private driveway.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or into a sidewalk area extending across any alleyway and, upon entering the roadway, he shall yield the right-of-way to all vehicles approaching on such roadway. (Code 1970, Sec. 11-27)

Section 7-1105 Driving within sidewalk area.

The driver of a vehicle shall not drive within any sidewalk area, except at a permanent or temporary driveway. (Code 1970, Sec. 11-28)

Section 7-1106 Unnecessary vehicular noise, etc., - "Scratching off."

It shall be unlawful for any person to start, stop, turn or otherwise operate a motor vehicle so as to create any unnecessary noise with the wheels, tires or engine thereof, or so as to leave tire marks upon the pavement of any street or other public place. (Code 1970, Sec. 11-29)

Section 7-1107 Same; prevention of noise, smoke, etc.; muffler cutouts regulated.

(a) No person shall drive a motor vehicle on a street or highway unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise, annoying smoke and smoke screens.

(b) It shall be unlawful to use a "muffler cutout" on any motor vehicle upon a street or highway. (Code 1970, Sec. 11-30)

Section 7-1108 Operation of motorcycles.

(a) It shall be unlawful for persons operating motorcycles upon the public streets or highways of the town to travel thereon more than two (2) abreast.

(b) Any persons operating motorcycles upon the public streets or highways shall operate the same as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(c) Upon conviction of failure to comply with the foregoing provisions of this section, the punishment therefor shall be a fine not to exceed \$50, or imprisonment not to exceed 30 days for each offense. (Code 1970, Sec. 11-31)

Section 7-1109 Cruising.

(a) No person shall drive or permit a motor vehicle under his care, custody or control to be driven past a traffic-control point more than three (3) times within a two-hour period between the hours of 9:00 p.m. and 4:00 a.m. in an area designated as a "No Cruising Area." The passing of a traffic-control point a fourth or subsequent time under the aforesaid conditions shall constitute unnecessary, repetitive driving (also known as "cruising") and a violation of this section.

(b) A "No Cruising Area" is defined as an area which has been designated by resolution of the town council as an area in which unnecessary, repetitive driving as defined in this section is prohibited.

(c) Signs shall be erected in each area designated by the town council as an area in which unnecessary, repetitive driving as defined in this section is prohibited to provide notice that the area has been designated a "No Cruising Area."

(d) A traffic-control point as used in this section means any point or points within a "No Cruising Area" established by the police department for the purpose of monitoring unnecessary, repetitive driving.

(e) No area shall be designated or posted as a "No Cruising Area" except upon passage of a resolution by the town council specifically designating the area as a "No Cruising Area." (For streets declared to be "No Cruising Areas" by resolution of the town council, see Appendix I, section 141.)

(f) This section shall not apply to emergency vehicles, vehicles used in public transportation, municipal vehicles and other vehicles being driven for business purposes.

(g) This section may be enforced as follows:

(1) A civil penalty of \$25 may be levied against any person who violates this section and who has been issued a citation. The citation shall direct the violator to pay the penalty within 10 days from the date of the issuance of the citation. If the civil penalty is not paid within 10 days from the date of issuance of the citation, an additional \$25 delinquency charge shall be added to the penalty. The penalty and delinquency charge may be recovered by the town in a civil action.

(2) Upon any subsequent violation of this section by a person within a seven (7) day period, the violator may be charged as provided in G.S. 14-4. (Ord. of 6/6/94)

Section 7-1110 reserved.

ARTICLE J
Pedestrians' Rights and Duties

Section 7-1111 Pedestrians subject to traffic-control signals.

Pedestrians shall be subject to traffic-control signals as heretofore declared in section 7-1034 and 7-1035 of this chapter, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

Section 7-1112 Pedestrians' right-of-way in crosswalk.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle, which is so close that it is impossible for the driver to yield. A pedestrian's right-of-way in a crosswalk is modified under the condition and as stated in section 7-1112(b).

(b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

Section 7-1113 Pedestrians to use right half of crosswalk.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

Section 7-1114 Crossing at right angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

Section 7-1115 When pedestrian shall yield.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

Section 7-1116 Pedestrians walking along roadways.

(a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

Section 7-1117 Pedestrians soliciting rides or business.

(a) No person shall stand in a roadway for the purpose of soliciting a ride, employment, or business from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

Section 7-1118 Drivers to exercise due care.

Notwithstanding the foregoing provisions of this article every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway; shall give warning by sounding the horn when necessary; and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

Section 7-1119 through section 7-1120 reserved.

ARTICLE K
Regulations for Bicycles

Section 7-1121 Effect of regulations.

(a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

(b) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

Section 7-1122 Traffic laws apply to persons riding bicycles.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by this chapter applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and ordinances which by their nature can have no application.

Section 7-1123 Obedience to traffic-control devices.

(a) Any person operating a bicycle shall obey the instructions of official traffic-control signals, signs, and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(b) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no person operating a bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians. •

Section 7-1124 Riding on bicycles.

(a) A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

Section 7-1125 Riding on roadways and bicycle paths.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(c) Whenever a usable path for bicycles has been provided adjacent to a roadway bicycle riders shall use such path and shall not use the roadway.

Section 7-1126 Speed.

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No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

Section 7-1127 Emerging from alley or driveway.

The operator of a bicycle, emerging from an alley, driveway or building, shall upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

Section 7-1128 Carrying articles.

No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

Section 7-1129 Parking.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

Section 7-1130 Riding on sidewalks.

- (a) No person shall ride a bicycle upon a sidewalk within a business district.
- (b) The chief of police is authorized to erect signs on any roadway prohibiting the riding of bicycles thereon by any person and when such signs are in place no person shall disobey the same.
- (c) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

Section 7-1131 Lamps and other equipment on bicycles.

- (a) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of the type which shall be visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.
- (c) Every bicycle shall be equipped with a brake which will enable the operator to make the brake wheel skid on dry, level, clean pavement.

Section 7-1132 through section 7-1140 reserved.

ARTICLE L
Method of Parking

Section 7-1141 Standing or parking close to curb.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within 18 inches of the curb or edge of the roadway except as otherwise provided in this article.

Section 7-1142 Signs or markings indicating angle parking.

(a) The council shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets, which are specified in Appendix I, section 107, hereby made a part hereof.

(b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be caused or required to drive upon the left side of the street.

Section 7-1143 Obedience to angle parking signs or markings.

Upon those streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

Section 7-1144 Lights on parked vehicles.

(a) Whenever a vehicle is lawfully parked at nighttime upon any street within a business or residence district no lights need be displayed upon such parked vehicle.

(b) Whenever a vehicle is parked upon a street or highway outside of a business or residence district during the hours between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, such vehicle shall be equipped with one or more lamps which shall exhibit a white light on the roadway side visible from a distance of 500 feet to the front of the vehicle and a red light visible from a distance of 500 feet to the rear.

(c) Any lighted headlamps upon a parked vehicle shall be depressed or dimmed.

Section 7-1145 Vehicles backed up to curb.

In no case shall a vehicle remain backed up to the curb, except when actually loading or unloading.

Section 7-1146 Unattended vehicles.

It shall be unlawful for any person to leave the engine or motor of any motor vehicle running while the same is standing parked upon the streets.

Section 7-1147 Moving cars from parked positions.

Parked cars shall move out in the direction headed, or If they are parked at an angle with the curb, they shall back at that angle until they have cleared the other cars and shall then proceed in the direction they are most nearly headed in.

Section 7-1148 through section 7-1150 reserved.

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ARTICLE M**Stopping, Standing, or Parking Prohibited in Specified Places**

Section 7-1151 Stopping, standing, or parking prohibited. No signs required.

(a) No person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (1) On a sidewalk;
 - (2) In front of a public or private driveway;
 - (3) Within an intersection;
 - (4) Within 15 feet of a fire hydrant;
 - (5) On a crosswalk;
 - (6) Within 20 feet of a crosswalk at an intersection;
 - (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
 - (8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless signs or markings indicate a different length;
 - (9) Within 50 feet of the nearest rail of a railroad crossing;
 - (10) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly signposted);
 - (11) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
 - (12) On a roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (13) Upon any bridge or other elevated structure upon a highway or within a highway tunnel; (14) At any place where official signs prohibit stopping.
- (b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.

Section 7-1152 Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic.

Section 7-1153 Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley, in such position as to block the driveway entrance to any abutting property.

Section 7-1154 All-night parking prohibited.

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When respective signs are placed in certain streets, no person shall park a vehicle between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) a.m. upon any of the streets described in Appendix I, section 102, hereby made a part hereof, provided that this section shall not apply to automobiles, or other vehicles, if their owners are at work in the building, or on the premises, near which said vehicles are parked.

Section 7-1155 Standing or parking for certain purposes prohibited.

It shall be unlawful for any person to stand or park a vehicle upon any street of the town for the principal purposes of:

- (1) Displaying for sale;
 - (2) Washing, greasing or repairing such vehicle, except repairs made necessary by a bona fide emergency;
 - (3) Storing by garages, dealers or other persons when such storing is not incident to the bona fide use and operation of such automobile or other vehicle; and
 - (4) Storing of any detached trailer or van when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from one vehicle to another.
 - (5) Selling goods, wares or merchandise.
- (Code 1970, Sec. 11-36)
- (6) Advertising. (Code 1970, Sec. 11-37)

Section 7-1156 Parking adjacent to schools.

When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

Section 7-1157 Standing or parking on one-way roadways.

In the event a highway includes two (2) or more separate roadways and traffic restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking.

Section 7-1158 No stopping, standing, or parking near hazardous or congested places.

When official signs are erected at hazardous or congested places no person shall stop, stand, or park a vehicle in any such designated place.

Section 7-1159 Stopping, standing, or parking for primary purpose of advertising, prohibited.

No person shall stand, or park, on any street any vehicle for the primary purpose of advertising.

Section 7-1160 Loading and unloading of tractor trailers prohibited on certain streets.

(a) For the purpose of speeding up traffic and avoiding congestion, tractor trailer truck units shall not be allowed to stop at any point for unloading or delivery purposes in the street areas specified in Appendix I, section 140, hereby incorporated herein.

(b) Provided that pick up trucks or short trucks must be used in the delivery of merchandise on the above streets; provided further that any business house having a back lot ample for standing a tractor trailer unit off the street may be served by such tractor trailer unit provided it is entirely parked off the street.

Section 7-1161 through section 7-1170 reserved.

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ARTICLE N
Stopping for Loading Or Unloading Only

Section 7-1171 Loading zones, and unloading

Whenever vehicle loading and unloading zones are designated and described by this article and when signs are placed, erected or installed, giving notice thereof, it shall be unlawful for any person to stop, stand or park any vehicle for any purpose or period of time except in accordance with the requirements of this article.

Cross Reference: See section 7-1160 for prohibition of loading and unloading tractor trailers on certain streets.

Section 7-1172 Passenger loading zones.

The streets, or parts thereof, described in Appendix I, section 129, hereby incorporated herein, are hereby designated as passenger loading and unloading zones, and no person shall stop, stand or park a vehicle therein during the hours of eight o'clock (8:00) a.m. to six o'clock (6:00) p.m. for any purpose other than the expeditious loading or unloading of passengers, and then only for a period not to exceed 10 minutes.

Section 7-1173 Commercial loading zones.

The streets, or parts thereof, described in Appendix I, section 130, hereby incorporated here- in, are hereby designated as commercial loading and unloading zones and no person shall stop, stand or park a vehicle therein during the hours of eight o'clock (8:00) a.m. to six o'clock (6:00) p.m. for any purpose other than the expeditious unloading and delivery, or pickup and loading of materials and goods, and then only for a period not to exceed 30 minutes.

Section 7-1174 Public carrier stops and stands.

Bus stands, taxicab stands and stands for other passenger common-carrier motor vehicles designated by appropriate signs, shall be as ~~specified~~specified in Appendix I, section 106, hereby made a part hereof.

Section 7-1175 Stopping, standing, and parking of buses and taxicabs regulated.

(a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than at a bus stand so designated as pro- vided herein.

(b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand, or passenger loading zone so designated as provided herein, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop, bus stand, or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in position with the right front wheel of such vehicle not farther than 18 inches from the curb, and the bus approximately parallel to the curb, so as not to unduly impede the movement of other vehicular traffic.

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(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious load~~ing~~ or unloading of passengers.

Section 7-1176 Restricted use of bus and taxicab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop has been officially designated and appropriately ~~stgn-ed~~signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, or taxicab waiting to enter or about to enter such zone.

Section 7-1177 through section 7-1180 reserved.

ARTICLE O**Stopping, Standing, or Parking Restricted or Prohibited on Certain Streets****Section 7-1181 Application of article.**

The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device.

Section 7-1182 Regulations not exclusive.

The provisions of this article imposing a time limit on parking shall not relieve any person from the duty of other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

Section 7-1183 Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described in Appendix I, section 101, hereby made a part hereof.

Section 7-1184 Parking time limited on certain streets.

When signs are erected in each block giving notice thereof, no person shall park a vehicle for longer than the times specified within the district or upon any of the streets described in Appendix I, sections 103 through 105 and 138 through 140, hereby made a part hereof.
(as amended by ord. of 11/7/16)

Section 7-1185 Parking signs required.

Whenever by this or any other article any parking time limit is imposed or parking prohibited on designated streets there shall be appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

Section 7-1186 Vehicles not to stop in streets, exceptions.

No vehicle shall stop in any street except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given right-of-way, by the stopping of a public conveyance, by the lowering of railway gates, by being given countermanning traffic signals, by the passing of some other vehicle or a pedestrian, or by some emergency; in all cases covered by these exceptions said vehicles shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing, or street intersection if it can be avoided.

Section 7-1187 Parking prohibited between 6:00 p.m. and 6:00 a.m.

That no person shall park a vehicle after the hour of six o'clock (6:00) p.m., and before the hour of six o'clock (6:00) a.m. on the streets or portion of streets specified in Appendix I, section 103, hereby made a part hereof.

Section 7-1188 Parking prohibited between 9:00 p.m. and 4:00 a.m.

No person shall park a vehicle between the hours of nine o'clock (9:00) p.m. and four o'clock (4:00) a.m. on any day along any of the streets or portions of streets specified in Appendix I, section 139, hereby made a part hereof.

Section 7-1189 through section 7-1190 reserved.

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ARTICLE P
Parking on Private Property

Section 7-1191 Request of owner to regulate or restrict parking.

Upon a written request of the owner or person in general charge of the operation and control of any parking areas or driveways of a privately owned hospital, shopping center, apartment house, condominium complex, commercial office complex or other privately owned public vehicular area, as defined in G.S. § 20-4.01(32), the town council may regulate or prohibit during specified hours the stopping, standing, or parking of motor vehicles. (Ord. of 4/2/90)

Section 7-1192 Application.

The owner or person in general charge of the operation and control of the property must submit the request regulation in writing, on application forms available from the town clerk. (Ord. of 4/2/90)

Section 7-1193 Parking restrictions; penalty.

(a) No person shall stop, leave standing, or park a motor vehicle in the area specified in Appendix I, section 138, in violation of posted signs, when signs are placed, erected or installed, giving notice that stopping, standing, or parking is regulated, or prohibited during certain hours, in that space or area.

(b) The locations set forth in Appendix I, section 138 are designated as "No Parking After Business Hours" and "Customer Parking Only" areas. All parking is prohibited on property owned or controlled by said businesses except during the business hours of the business operating at the location and parking during such business hours is restricted to parking by the customers of the business.

(c) The provisions of this Article shall be enforceable in the same manner as is used to enforce other parking regulations and ordinances, and penalties shall be the same as for the corresponding violation on publicly owned or controlled streets or property. (Ord. of 4/2/90)

Sec. 1194 through section 7-1200 reserved.

ARTICLE Q
Municipal Parking Lots

Sec. 7-1201 Parking prohibited between 9:00 p.m. and 4:00 a.m.

No person shall park a vehicle between the hours of nine o'clock (9:00) p.m. and four o'clock (4:00) a.m. on any day in any of the town parking lots specified in Appendix I, section 140, hereby made a part hereof.

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ARTICLE R
Parking Meters
(Reserved)

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ARTICLE S
Civil Penalties for Parking Violations

Section 7-1230 Civil penalty procedure.

(a) The violation of any ordinance restricting, regulating or prohibiting parking shall subject the offender to a civil penalty as hereafter enumerated. Such violation shall not constitute a criminal offense or an infraction.

(b) Whenever a member of the police department or other person charged with the enforcement of the provision of the chapter regulating parking of vehicles shall find any of such provisions are being, or have been, violated by the owner or operator of any vehicle, such officer or person shall notify such owner or operator or such vehicle of such violation by conspicuously attaching to such vehicle a parking violation notice or citation in such form as the chief of police may direct.

(c) Such parking violation or notice shall, among other things:

(1) State upon its face that the amount of such penalty for the specified violation shall be \$25 if such penalty is paid within forty-eight (48) hours from and after such violation;

(2) Notify such offender that a failure to pay the penalty within the prescribed time shall subject such offender to a civil action in the nature of a debt for the stated penalty plus an additional penalty in the amount of \$25, together with the costs of the action to be taxed by the court;

(3) Further provide that such offender may answer the town parking citation by mailing the citation and the stated penalty to the Valdese Police Department or may pay the amount at the Valdese Police Department and that upon payment the claim by the town will be deemed compromised and settled;

(4) State that such penalty must either be paid or such failure to pay must be cleared with the Valdese Police Department within forty-eight (48) hours of issuance of the citation;

(5) The notice shall further state that if the parking violation citation is not cleared within forty-eight (48) hours, court action by the filing of a civil complaint for collection of the penalty may be taken. As used upon the parking violation citation, the word "cleared" shall mean either: payment, arrangements for payment to be made; or a prima facie showing that such parking citation was received as a result of mistake, inadvertence or excusable neglect.

(d) The Valdese Police Department is authorized to accept such payments in full and final settlement of the claim or claims that the town may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims arising out of such contended violation or violations.

(e) All penalties paid to the Valdese Police Department or as may be recovered in a civil action in the nature of debt as herein provided shall be paid into the general fund of the town as such time and under such regulations as may be prescribed by the town manager.

(f) Proof of ownership of a vehicle parked in violation of this article shall be prima facie evidence that the owner parked the vehicle.(Ord. of 4/2/90; as amended by Ord. of 6/6/94; as amended by Ord. of 11/7/16; as amended by Ord. of 12/5/16)

Section 7-1231 Unauthorized removal of traffic citation from vehicle.

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~~It shall be unlawful to remove a traffic citation from a vehicle, or to permit it to be removed, except for the purpose of answering the charge for which it was issued. Any person who shall violate this section shall be guilty of a misdemeanor. Each separate violation of this section shall be considered a separate offense. (Ord. of 4/2/90)~~ It shall be unlawful to remove a traffic citation from a vehicle, or to permit it to be removed, except for the purpose of answering the charge for which it was issued. Any violation of this section shall be shall be an infraction as provided by G.S. 14-4(b) punishable by a penalty of not more than fifty dollars (\$50.00). Each separate violation of this section shall be considered a separate offense.

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ARTICLE T
Vehicle Restrictions on Certain Streets

Section 7-1240 Truck tractors or semi-tractors or combinations thereof with a gross vehicle weight rating greater than five (5) tons.

(a) When signs are erected giving notice thereof, it shall be unlawful for any person to operate a truck tractor or semi-tractor or combination thereof with a gross vehicle weight rating greater than five (5) tons upon any of the following streets or parts of streets:

(1) Laurel Street - Between Main Street and the intersection of Laurel Street and the south margin of Lovelady Road.

(2) Eldred Street - Between Main Street and Laurel Street.

(b) This section shall not apply to persons operating school buses, vehicles driven to or from property along these streets for purposes of loading or unloading, or vehicles being used to provide services such as fire protection, garbage pick-up, and street maintenance. (Ord. of 12/8/03; Ord. of 3/1/04)

PART 8
Offenses

- Chapter 1. Disorderly Conduct
- Chapter 2. Animals
- Chapter 3. Abandoned, Nuisance and Junked Motor Vehicles
- Chapter 4. Nuisances Related to Property
- Chapter 5. General Health Regulations
- Chapter 6. Other General Nuisances
- Chapter 7. Fair Housing Code
- Chapter 8. Tree Regulations
- Chapter 9. Parks and Recreational Facilities
- Chapter 10. Malt Beverages and Unfortified Wine
- Chapter 11. Special Events

CHAPTER 1 Disorderly Conduct

Section 8-1001 Disorderly conduct, specifically.

Section 8-1002 Disturbing public meetings or gatherings.

Section 8-1003 Disturbing school decorum.

Section 8-1004 Drunkenness in public.

Section 8-1005 Loitering and disorderly conduct on public property.

Section 8-1006 Obstructing free passage of pedestrians.

Section 8-1001 Disorderly conduct; specifically.

(a) Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

(1) Any person who shall act in a violent or tumultuous manner toward another, whereby any person is placed in fear of safety of his life, limb or health.

(2) Any person who shall act in a violent or tumultuous manner toward another, whereby property of any person is placed in danger of being destroyed or damaged.

(3) Any person who shall endanger lawful pursuits of another by acts of violence, angry threats and abusive conduct.

(4) Any person who shall cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another.

(5) Any person who shall assemble or congregate with another or others for the purpose of causing, provoking or engaging in any fight or brawl.

(6) Any person who shall be found jostling or roughly crowding or pushing any person in any public place.

(7) Any person who shall collect in bodies or in crowds for unlawful purposes.

(8) Any person who shall assemble or congregate with another or others for the purpose of or with the intent to engage in gaming.

(9) Any person who shall frequent any public place with intent to obtain money from another by an illegal and fraudulent scheme, trick, artifice or device.

(10) Any person who assembles with another or others for the purpose of engaging in any fraudulent scheme, device, or trick to obtain any valuable thing in any place or from any person in the town, or who shall aid or abet therein.

(11) Any person who utters, while in a state of anger, in the presence of another, any lewd or obscene words or epithets.

(12) Any person who frequents any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.

(13) Any person who shall act in a dangerous manner toward others.

(14) Any person who shall use "fighting words" directed towards any person who becomes outraged and thus creates turmoil.

(15) Any person who shall assemble or congregate with another or others for the purpose of doing bodily harm to another.

(16) Any person who shall, by acts of violence, interfere with another's pursuit of a lawful occupation.

(17) Any person who shall congregate with another or others in or on any public way so as to halt the flow of vehicular or pedestrian traffic and refuses to clear such public way when ordered to do so by a peace officer or other person having authority.

(b) Any person convicted of disorderly conduct, as defined in this section, shall be punished as provided in section 1-1005. (Code 1970, Sec. 12-3)

Section 8-1002 Disturbing public meetings or gatherings.

It shall be unlawful for any person willfully or wantonly to disturb any public meeting or gathering. (Code 1970, Sec. 12-4)

Section 8-1003 Disturbing school decorum.

No person shall engage by conversation, sign or otherwise, the attention of any pupil to the disturbance of the discipline of any school. (Code 1970, Sec. 12-5)

Section 8-1004 Drunkenness in public.

If any person shall be found drunk or intoxicated in any public place, he shall be punished as provided by section 1-1005.

Section 8-1005 Loitering and disorderly conduct on public property.

It shall be unlawful for any person or persons to congregate with others, loiter, stand around, lounge, sit upon parked vehicles, or gather, on the town-owned or operated parking lot, upon any public street or sidewalk or other public area for the purpose of or which results in the engaging in of loud or boisterous conduct; abusive, lewd, or obscene language or conduct; interfering with or impeding the flow of vehicular or pedestrian traffic; littering; consuming or using alcoholic beverages; harassing motorists or pedestrians; or otherwise disturbing the public peace or engaging in disorderly conduct. (Ord. of 9/14/81)

Section 8-1006 Obstructing free passage of pedestrians.

(a) No person, after first being warned by a police officer, or where a readable "No Loitering" sign or signs are prominently displayed, shall loiter, stand, sit or lie in or upon any public or quasi-public sidewalk, street, curb, crosswalk, walkway area, park, mall or that portion of private property used for public use, so as to hinder or obstruct unreasonably the free passage of pedestrians thereon; nor shall any person block or obstruct or prevent the free access to the entrance to any building open to the public.

(b) A violation of this section may be enforced by either or both of the following methods:

(1) A civil penalty of \$25 may be levied against any person who violates this section and who has been issued a citation. The citation shall direct the violator to pay the penalty within 10 days from the date of the issuance of the citation. If the civil penalty is not paid within 10 days from the date of issuance of the citation, an additional \$25 delinquency charge shall be added to the penalty. The penalty and delinquency charge may be recovered by the town in a civil action.

(2) The violator may be charged as provided by G.S. 14-4. (Ord. of 6/6/94)

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CHAPTER 2 Animals

ARTICLE A

General

- Section 8-2001 Title.
- Section 8-2002 Authority.
- Section 8-2003 Jurisdiction.
- Section 8-2004 Purpose and intent.
- Section 8-2005 Definitions.
- Section 8-2006 Responsibility.
- Section 8-2007 Interference.
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- Section 8-2011 Supervision.
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- Section 8-2021 Cruelty to animals.
- Section 8-2022 Nuisances.
- Section 8-2023 Animal bites.
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- Section 8-2025 Dead animals; burial.
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Section 8-2043 Adequacy and location of shelter.

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Section 8-2045 Zoning rules applicable.

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ARTICLE F

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Section 8-2051 Impoundment.

Section 8-2052 Powers.

Section 8-2053 Conflicts.

Section 8-2054 Remedies.

Section 8-2055 Penalties.

ARTICLE A General

Section 8-2001 Title.

This chapter shall be known as the Animal Control Ordinance of the Town of Valdese or simply as the Animal Control Ordinance. (Ord. of 6/4/18)

Section 8-2002 Authority.

This chapter is adopted under the authority and provisions of the general ordinance making power set out in G.S. 160A-174 as well as the specific authority granted in G.S. 160A-182, G.S. 160A-186, G.S. 160A-187 and G.S. chapter 67. (Ord. of 6/4/18)

Section 8-2003 Jurisdiction.

These regulations and the requirements of this chapter shall apply and be enforceable throughout the corporate limits of the Town of Valdese. (Ord. of 6/4/18)

Section 8-2004 Purpose and intent.

The purposes of this chapter are to promote the public health, safety and general welfare of the citizens of the Town of Valdese and to ensure the humane treatment of animals by regulating the care and control of animals within the town.

It is the town's intent to fairly but effectively and diligently enforce the provisions of this chapter. (Ord. of 6/4/18)

Section 8-2005 Definitions.

For the purpose of this chapter, the following terms are defined:

Animal. Any live creature, wild or domestic, male or female except humans. Animals include, but are not limited to, dogs, cats, livestock and other mammals, birds, chickens, reptiles, amphibians and fish.

Animal control officer. An employee or agent of the town, designated by the Town Manager or the Director

of Public Works or some other authorized person to administer and enforce the permitting, inspection and enforcement requirements of this chapter and applicable state laws.

Animal shelter. Any facility operated by the town, solely or jointly, or used by the town under a contractual arrangement, for the temporary care, confinement and detention of animals or the humane killing or other disposition of animals when appropriate. The term includes any animal shelter operated by Burke County or any animal shelter operated by any private or public entity, if the services of that shelter are used by the town,

Cat. A domestic feline of either sex.

Cloven hoofed animal. A cloven hoofed animal, equine or other similar livestock such as horse, mule, pony, cow, goat or sheep, including miniature or novelty breeds of such animals. Also called livestock, but it does not include swine.

County rabies ordinance. Any ordinance by whatever title adopted by Burke County for the purpose of controlling rabies.

Dangerous (Vicious) animal. Any animal that because of its aggressive nature, breeding, training or characteristic behavior, presents a risk of serious physical harm or death to human beings or would constitute a danger to human life, physical well-being or property if not kept under the direct control of the owner. The term "dangerous animal" is intended to include the term "dangerous dog" or "potentially dangerous dog" as defined by G.S. 67-4.1(a)(1), but this definition shall not apply to dogs used by law enforcement officers in the performance of their duty.

Dog. A domestic canine of either sex.

Domestic or domesticated animal. Animals that are customarily kept for the company, pleasure, or enjoyment within the home or yard such as domestic dogs, domestic cats, domestic tropical birds, domestic rodents, domestic rabbits, and domestic fish.

Exposed to rabies. Any animal or human that is bitten by or exposed to any animal known or suspected to have been infected with rabies.

Guard or attack dog. A dog trained to attack on command or to protect persons or property and who will cease to attack upon command.

Harboring an animal. An animal shall be deemed to be harbored if it is fed or sheltered for seven (7) days or more unless the animal is being boarded for a fee in a properly licensed kennel.

Health director. The Director of the Burke County Health Department.

Impounded or impoundment. Taking an animal into custody by an animal control officer or any other authorized representative of the Town of Valdese, including any animal captured in a trap placed by or under the direction of an animal control officer.

Inoculation. The vaccination of a dog or cat by a licensed veterinarian or under the supervision of a licensed veterinarian with rabies vaccine approved by the United States Bureau of Animal Industry, the North Carolina Department of Agriculture or the North Carolina State Board of Health.

Kennel. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling of domestic animals.

Livestock. See cloven hoofed animal.

Muzzle. A device constructed of strong, soft material or of metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or other animal.

Neutered male. Any male dog or cat that has been rendered sterile by a surgical procedure.

Owner. Any person having temporary or permanent custody of an animal, including an individual who harbors, has a legal or possessory interest in or actually cares for a particular animal.

Pasture. An auxiliary fenced area with sufficient grass for grazing.

Premises. A particular portion of real estate such as a house and lot, a building or a defined part of a building such as a condominium or an apartment.

Provocation. Any action designed to goad, enflame, instigate or stimulate an aggressive response from an animal; except that the action of a child age seven (7) or under cannot be provocation.

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Running-at-large or at large. An animal that is off the premises of its owner and is not on a leash or under physical restraint of a person who is physically capable of restraining the animal.

Service animal. A dog that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability.

Shelter. See animal shelter.

Spayed. A female dog, cat or animal that has been rendered sterile by surgical means.

Stray. Any animal at large without identification of ownership or a readily ascertainable owner.

Swine. Any hog, pig, male or female, regardless of age, breed or size including miniature, novelty or special breeds of any pig or hog.

Wild or exotic animal. Any animal that would ordinarily be confined to a zoo or that can normally be found in the wild state including, but not limited to, monkeys, non-human primates, raccoons, skunks, foxes, lions, leopards, panthers, tigers, wolves, deer, bear, bobcats, etc. The term "wild animal" does not include domestic dogs unless crossbred with a wolf, coyote or jackal or other similar animal or domestic cats, unless crossbred with a wild cat, fish confined in an aquarium, bird kept indoors in a cage, or an insect. (Ord. of 6/4/18)

Section 8-2006 Responsibility.

(a) Animal owners. Every owner of a dog, cat or other animal shall be responsible for its acts and the results of its acts.

(b) Conditions. Every property owner, tenant or occupant of any premises shall be fully responsible for the conditions occurring on their property, including odors, noise or other unsanitary conditions associated with dog lots, animal pens, pastures or other facilities used to house or confine any animal.

(c) Negligence. This chapter is intended to impose a public duty upon the owner of an animal or animals to prevent those animals from attacking or causing injury to other people, other animals and other property. Owners have the duty to promote the health, safety and welfare of other citizens, and a violation of any duty imposed under this chapter shall be considered as negligence which may give rise to damages for personal injuries or damage to personal property in a civil action as permitted by law. (Ord. of 6/4/18)

Section 8-2007 Interference.

It shall be unlawful for any person to hinder or interfere with an animal control officer or any other person charged with the enforcement of this chapter in the performance of their official duties. (Ord. of 6/4/18)

Section 8-2008 Concealment.

It shall be unlawful for any person to conceal any animal for the purpose of evading the requirements of this chapter, especially the rabies inoculation requirement. Further, it shall be unlawful for the owner of an animal to refuse to show proof of a rabies inoculation upon the request of any animal enforcement officer. (Ord. of 6/4/18)

Section 8-2009 Exemptions.

(a) The prohibition in this chapter on the number of animals or the kinds or species of animals that may be kept or maintained within the town shall not apply under the following circumstances:

(1) Lawfully operated and located pet shops; however, once an animal is purchased from a pet shop, the keeping or maintaining of the animal shall be subject to all of the provisions of this chapter unless such animal is immediately removed from the town;

(2) A lawfully operated and located zoological garden (zoo) provided such zoo is accredited by the appropriate association normally issuing or establishing the standards for the operation of a zoo;

(3) A veterinarian keeping such animals for the purpose of providing professional medical treatment;

(4) A lawfully operated and located scientific research laboratory, a circus, a wildlife rehabilitator with the proper permits, or an exhibitor licensed by the United States Department of Agriculture displaying such animals for educational purpose;

(5) A food processing plant provided the animals kept or maintained are for the purpose of the operation and provided further that the operation is otherwise lawfully operated;

(6) An institution of higher learning that is keeping a limited number of farm animals (pigs, chickens or goats) as an essential part of an animal science educational program in accordance with the adopted curriculum of the State of North Carolina provided such animals are maintained in a fenced pen or enclosure, and at least one thousand (1,000) feet from the nearest residence and provided further that such animals are not maintained for commercial or production purposes.

(7) Animals boarded in a kennel; or

(8) A service animal under the control of the dog's handler.

(b) The exemptions noted above shall apply only when the animals are maintained in a manner so as to prevent escape and only to the number of animals and the type or species of animals kept or maintained. Provisions of this chapter dealing with animal treatment and abuse, nuisances, the kinds and types of pens, closures and other structures or places where animals are kept, sanitary conditions and other similar provisions shall continue to apply even to exempt activities. (Ord. of 6/4/18)

Section 8-2010 Reserved.

ARTICLE B Administration

Section 8-2011 Supervision.

This chapter and other ordinances or state laws dealing with dogs, cats and animals shall be administered under the direction and supervision of the Town Manager and the Director of Public Works who shall be responsible for the development and implementation of policies and procedures providing for the enforcement of this chapter. Specific duties and responsibilities assigned to the Department of Public Works, or to the Director of Public Works, by this chapter may be delegated to animal control officers and other personnel. (Ord. of 6/4/18)

Section 8-2012 Duties.

In general, the Department of Public Works and the personnel assigned responsibilities under this chapter shall:

- (a) Enforce and carry out not only the provisions of this chapter but also any other ordinance pertaining to animal control matters as well as to all state laws dealing with animals, specifically including G.S. Chapter 67,
- (b) Investigate complaints concerning all matters subject to this chapter,
- (c) Impound dogs or other animals when appropriate,
- (d) Issue civil citations and initiate other proceedings for the purpose of securing compliance with this chapter,
- (e) Assist in preventing the cruelty to animals and protecting animals from unnecessary neglect or abuse, and
- (f) Participate in the management and operation of an animal shelter or other impoundment facility, as directed by the Town Manager or the Town Council or both. (Ord. of 6/4/18)

Section 8-2013 Personnel.

The Director of Public Works may appoint animal control officers and assign such personnel as is necessary to effectively administer this chapter. (Ord. of 6/4/18)

Section 8-2014 Policies.

The Director of Public Works, with the consent of the Town Manager, may issue and implement policies necessary or convenient for the orderly administration of this chapter including requirements concerning uniforms, the possession and use of weapons, use of vehicles, use of tranquilizer guns, and the manner of impounding animals. Further, the Director of Public Works, with the consent of the Town Manager, may also issue and implement policies concerning the adoption and redemption of animals, the manner and method of destroying or disposing of animals, methods of investigation, the entry into premises with or without search warrants and all other matters pertaining to this chapter. However, all policies and procedures shall be in writing and shall be consistent with the terms and provisions of this chapter.

In the event the services of a county animal shelter or an independent shelter operated by some other private or public entity is used by the town, it is recognized that the rules and regulations issued by the governing body of that facility concerning the adoption and redemption of animals, the manner and method of destroying or disposing of animals and other operational matters may be controlling and therefore to the extent possible, policies issued by the Director of Public Works shall be consistent with the policies of that facility. (Ord. of 6/4/18)

Sections 8-2015 through 8-2020 reserved.

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ARTICLE C
Prohibited Acts and Conditions

Section 8-2021 Cruelty to animals.

The abuse of or cruel or inhumane treatment of any animal is prohibited. Without limiting the type of acts, omissions and neglect that may be considered as cruel and inhumane treatment, the acts and conditions set forth in this section shall be unlawful, but other acts or neglect that injures or abuses any animal shall also be prohibited.

(a) State law. Any act, neglect or failure to act that violates any laws set forth in G.S. 14-360 through G.S. 14-363.3, or any amendments thereto or any other law enacted by the State of North Carolina or any regulation issued pursuant to such law that governs cruelty to animals shall be unlawful. It is intended that all such laws shall be incorporated into and made a part of this chapter to the same extent as if such laws were specifically included herein, and any violation of such laws shall likewise be a violation of this chapter.

(b) Care. No owner of an animal shall refuse or fail to provide such animal with sufficient, wholesome and nutritious food, potable water and veterinarian care when needed to prevent suffering, nor shall such person unnecessarily expose an animal to hot, stormy, cold or inclement weather and conditions that are likely to harm the animal.

(c) Abandonment. It shall be unlawful for any owner to abandon an animal within the town.

(d) Abuse. No person shall willfully or maliciously strike, beat, abuse or intentionally run down with a vehicle any animal or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to an animal except that reasonable force may be used to drive away a trespassing animal and reasonable force (including deadly force) may be used for self-defense from a vicious, menacing or attacking animal.

(e) Poison. No person shall poison any animal or knowingly leave any poisonous substance of any kind or ground glass or other similar material in any place with the intent to injure any animal.

(f) Exhibition. It shall be unlawful for any person to exhibit or to display pets, animals, birds or fowl for sale or entertainment in any manner that endangers the safety of the animal or that causes the animal to act in a manner unnatural for the particular species. (Ord. of 6/4/18)

Section 8-2022 Nuisances.

(a) Animal waste. It shall be unlawful for the owner of an animal to allow the animal to defecate or deposit any excretory matter (waste) in any public park, public playground, greenway, ball field or on any public street, sidewalk, public parking area (including islands and landscaped areas) or other public area unless such owner immediately removes the animal waste (feces or solid excretory matter) using a plastic bag or other suitable container and deposits the same in a receptacle suitable for such purpose.

(b) Other prohibitions. The keeping or maintain-ing of animals on any property located within the corporate limits of the town in such a manner or under such circumstances that the animal or its pen or enclosure, or both, is a nuisance or becomes a menace to the public health and safety is prohibited. In determining what acts or what conditions may constitute

a nuisance, the standard of "a reasonable man or woman under the same or similar circumstances" shall be used. Without limiting the acts and conditions that may be or become a nuisance, the following particular acts, failure to act, neglect or circumstances shall be construed as being in violation of this section and therefore prohibited:

- (1) Any animal that is repeatedly found running at large;
- (2) Any animal found to be in any section of a public park, ball field or recreational facility where the presence of animals is prohibited either by ordinance or by posted rules and regulations (signs) or within any town sponsored public festival or event when the presence of animals is prohibited by ordinance or by posted rules or regulations;
- (3) Any animal in any section of a public park, ball field or public recreation area unless the animal is controlled by a leash or other physical restraint by a person who is physically capable of restraining such animal;
- (4) Any vicious or dangerous animal in any public park, ball field, recreation area or other public area;
- (5) Any animal that damages, soils, defiles or defecates on any property other than that of its owner or other person having its care or custody;
- (6) Any animal that makes loud or disturbing noises, including, but not limited to, continued or repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance and discomfort to neighbors or to others in close proximity to the premises where the animal is kept or harbored;
- (7) Any animal that causes fouling of the air by noxious or offensive odors causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
- (8) Any animal that is in heat and is not confined so as to prevent attraction to or contact with other animals;
- (9) Any animal, whether or not the animal is on the property of the owner, that without provocation attacks, snaps at, bites or attempts to bite another person; however, for purposes of applying this section, a child under seven (7) years of age cannot be guilty of provocation;
- (10) Any animal that repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles of any kind on any public street, sidewalk or other public area;
- (11) Any animal that bites or attacks other domestic animals;
- (12) The keeping of any animal in a manner that causes unsanitary conditions in the pen or enclosure or other surroundings where the animal is kept or harbored;
- (13) Any situation that is offensive or dangerous to the public health, safety and welfare or that interferes with the right of nearby property owners to the use and enjoyment of their property because the number of animals maintained at a single residence or place greater than the single residence or place is capable of maintain-ing, or because the facilities at the single residence or place is inadequate for the number of animals maintained at such location;
- (14) Any pen, lot, dog run or enclosure where animals are kept or harbored that emits foul odors because of animal waste or other similar conditions;
- (15) Any diseased, injured or suffering animal that is not being properly treated by a veterinarian or other qualified person for such disease or injury;

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(16) The keeping of any wild or exotic animal except as specifically permitted and in strict compliance with the terms and conditions of this chapter; or

(17) Any animal that repeatedly turns over trash cans on either public or private property. (Ord. of 6/4/18)

Section 8-2023 Animal bites.

It shall be unlawful for any owner of an animal to allow or permit that animal to bite another person unless the animal has been subject to provocation or unless the animal is protecting its premises from a trespasser who has wrongfully entered the premises (however, for purposes of applying this section, a child seven (7) years of age or under cannot be guilty of trespass) or unless the animal is defending its owner from an unlawful attack by the victim. Likewise, it shall be unlawful for the owner of an animal that has bitten, attacked or threatened a human or another domestic animal to allow the animal to remain at large. (Ord. of 6/4/18)

Section 8-2024 Beekeeping.

It shall be unlawful for any person keeping bees to fail to control the flight path of the bees on their premises so that, as a result, a flight path of the bees interferes with the rights of the owners of adjacent property to the use and enjoyment of their property.

Further, it shall be unlawful for any person to fail to have on their premises an adequate supply of water for their bees. The water supply shall be in the vicinity of the beehives and shall be closer to the beehives than any water on any adjoining property. The water shall be available year-around. (Ord. of 6/4/18)

Section 8-2025 Dead animals; burial.

(a) It shall be unlawful for any person to leave or place the carcass of any dead animal owned by or under the care, custody or control of that person upon any street, alley or lot or to allow such animal to remain unburied. Further, no property owner shall permit the carcass of a dead animal to remain on his or her property without burial for more than twenty-four (24) hours after the property owner learns of the death of the animal.

(b) Dogs, cats and other small animals shall be buried at least eighteen (18) inches under the surface of the ground and larger animals shall be buried at least three (3) feet under the surface of the ground. Animals shall not be buried within public easements or rights-of-way or near power lines and other underground utilities.

(c) The Public Works Department is not responsible for the disposal of any dead animal. (Ord. of 6/4/18)

Section 8-2026 Festivals and concerts.

It shall be unlawful for any owner of an animal to allow the animal to enter into or remain within the boundaries of a town sponsored festival or concert unless authorized by the Town Manager. The festival or concert boundary shall include any area that is a part of the festival or concert and shall include any public street, sidewalk or other publicly owned area within the confines of such festival or concert, except that this section shall not apply to those

animals that are part of an authorized exhibit or attraction approved by the promoters of the festival or concert. (Ord. of 6/4/18)

Section 8-2027 Strays and at large.

(a) Strays. It shall be unlawful for any person to harbor, feed or keep in possession by confinement or otherwise any animal that does not belong to that person except with the consent of the owner or unless such person has within the next business day notified the Department of Public Works of such stray animal.

(b) At large. It shall be unlawful for an owner of an animal to allow or permit such animal to run or be at large within the town. (Ord. of 6/4/18)

Section 8-2028 Wild or exotic animals.

(a) It shall be unlawful for any person to own, keep, maintain, possess or have under the person's control any venomous reptile or any wild or exotic animal as defined in section 8-2005, except that the provisions of this section shall not apply to a lawfully operated zoo, scientific research laboratory or circus, or to any veterinarian keeping such animals for the purpose of providing professional medical treatment, nor shall it apply to wildlife rehabilitators with proper permits provided that the animals are maintained in quarters constructed to prevent any escape. Any wild or exotic animal so confined must be kept, housed and cared for in facilities that meet the regulations issued by the North Carolina Wildlife Resources Commission, the minimum standards under the Federal Animal Welfare Act, and all applicable rules issued by the United States Department of Agriculture.

(b) Notwithstanding this section, the following wild or exotic animals may be kept and maintained subject to the permit requirements stated below:

Non-human primates weighing less than fifteen (15) pounds at maturity;

Other mammals weighing less than forty (40) pounds at maturity;

Birds weighing less than fifteen (15) pounds at maturity; and

Non-venomous reptiles less than six (6) feet in length.

(c) Permits. Every owner of a wild or exotic animal, not otherwise prohibited by this section, shall be subject to the following requirements:

(1) Permits required. No person may keep or possess a wild or exotic animal in the town without first obtaining all permits required by the federal or state governments for keeping such animal and obtaining the permits as required by this subsection.

(2) Application. The owner of any wild or exotic animal must first complete a registration application which shall be supplied by the Town Public Works Department. The application, once completed, shall contain the following information:

- a. Name, address, telephone number and any e-mail address of the applicant;
- b. Description of the animal, including species, sex, and expected mature body weight and length or height;
- c. Street address of the premises where the animal will be kept;
- d. Copies of any federal or state permits or licenses required for the keeping of such animal, and

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e. Proof of the applicant's ability to respond in damages for any bodily injury or death of any person, or for damages to property of any person other than the owner that may result from the ownership, keeping or maintenance of such animal. Such proof of ability to respond in damages may include a certificate of insurance, an appropriate surety bond, or other sufficient proof reasonably satisfactory to the Public Works Director. (Ord. of 6/4/18)

Section 8-2029 Animal keeping.**(a) Purpose and Definitions**

(1) The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl and other birds that are not part of a bona fide farming operation.

(2) "Fowl" and "Birds" include the following: Chickens, game hens, geese, ducks, swans and other birds typically used as food. This definition for the purpose of animal keeping does not include parrots, parakeets, and other non-food birds.

(b) Prohibitions.

(1) Horses, mules, goats, cattle, all other types of livestock, fowl and other birds shall not be permitted within the town limits, except as provided in this section.

(c) Exceptions**(1) Horse.**

a. The keeping of horses is permitted in the R-12 Residential District provided the following conditions are met:

- i. Minimum of three (3) acres of property is available for each horse;
- ii. The part of the property where the horse is kept shall be completely enclosed by fence; and
- iii. Any stable, stall, barn or other structure within the town where a horse is kept shall be located at least one hundred (100) feet from the nearest street or sidewalk and at least one hundred (100) feet from any nearby dwelling house or any building used for commercial or other purposes, except that a dwelling house occupied by the owner of the animal or animals and his or her family may be located within one hundred (100) feet of any stable, stall, barn or structure.

(2) Chickens.

a. The keeping of chickens is permitted in the R-8, R-12, and R-12A Residential Districts, provided the following conditions are met:

- i. Maximum number of chickens on the property, 10;
- ii. No roosters are allowed;
- iii. Placement of the pen shall be in the rear yard only;
- iv. No free range (chickens are penned at all times);
- v. Pens shall be minimum of 100 feet from all adjoining residences;
- vi. Pens shall be minimum of 50 feet from all property lines; and
- vii. Comply with all applicable provisions of the Animal Control Ordinance (ex. cleanliness, odor).

(3) Keeping Domestic Pets. In all zones where dwelling units are allowed, domestic animals are allowed to be kept as household pets as follows: Up to an aggregate of six domestic animals per dwelling unit is permitted subject to the restrictions set forth in

Section 8-2030 of the Animal Control Ordinance; provided, however, birds (canary, parakeet, etc.), amphibian/reptile (turtle, lizard, etc.), rodents (rat, hamster, gerbil, etc.) and tropical fish are excluded from the numerical limitations. (Ord. of 6/4/18)

Section 8-2030 Number of dogs and cats allowed.

(a) The keeping of more than six (6) dogs or cats or any combination thereof, 16 weeks old or older, is prohibited. The keeping of more than three (3) but fewer than seven (7) dogs or cats or any combination thereof, 16 weeks old or older, shall be allowed only upon issuance of a written permit by an animal control officer. The procedure for obtaining a permit shall be as follows:

(1) The applicant shall first pay a permit fee in the amount of \$25.

(2) The applicant shall submit an application for a permit that shall contain the following information and documentation:

- a. location and size of the lot where the dogs and/or cats will be kept;
- b. size and nature of the construction of the primary structure or housing facility where the animals will reside;
- c. the breeds of the dogs and the breeds of the cats;
- d. the number of dogs and the number of cats;
- e. purpose of keeping the dogs and/or cats (i.e., pets, breeding, training);
- f. whether the keeping of the dogs and/or cats will be on a temporary (30 days or less) or permanent (excess of 30 days) basis;
- g. whether the dogs and/or cats will be kept primarily indoors or outside;
- h. the sex of the dogs and/or cats and whether they are spayed or neutered;
- i. the name and address of the owner of the animals, the person in charge of keeping the animals and the owner of the property where the animals will be kept.

(3) Upon receipt of an application, an animal control officer shall make an inspection of the subject premises. The animal control officer may solicit comments from other interested parties, including adjoining property owners. The animal control officer shall grant a permit only if the animal control officer makes the following findings:

- a. Barking, howling or other noise from the dogs or noise from the cats will neither disrupt the peace and quiet of the neighborhood nor otherwise interfere with the adjacent property owners' reasonable use and occupancy of their property and the peaceful enjoyment thereof.
- b. Any smell, odor or unsanitary condition caused by the dogs or cats will not unreasonably interfere with the adjacent property owners' use and peaceful enjoyment of their property.
- c. There is no reason to believe that the dogs or cats are carriers of any disease or pose any health problem or exposure to disease for occupants of adjacent property or to pets maintained on adjacent property.
- d. The keeping of the dogs and/or cats is not likely to become a nuisance.
- e. The lots, pens, runs or other structures in which the animals are to be kept are located in a place that is not unsightly to the neighbors and unlikely to result in odors or unreasonably loud noises that interfere with the right of the neighbors to the peaceful use and enjoyment of their property.

In making the findings required above and in determining whether the keeping or maintaining of dogs and/or cats will constitute a violation of this chapter or any other ordinance, the standard of "a reasonable man or woman under the same or similar circumstances" shall be applied.

(4) Each permit shall require the signed authorized consent of the permittee and any other persons whose consent is required in order to authorize an animal control officer's inspection of the premises at which the animals are kept at reasonable times. The permit shall specify the number of dogs or cats or combination thereof, sixteen (16) weeks old or older, permitted to be kept on the property. The permit may have additional conditions attached to it to ensure the continuing compliance with this chapter and the required findings set out above. Such conditions may include, but are not limited to:

a. Requiring dog houses, lots, pens and other similar enclosures for cats to be set back from the property line for a distance not to exceed fifty (50) feet to ensure that such enclosures are located in an area least likely to adversely affect adjacent properties.

b. Requiring fences, screening devices or other buffer areas, including natural vegetative screening (shrubbery and low growing trees), to ensure that unsightly conditions are not visible from adjacent property or from the nearest street.

c. Requiring that dilapidated and unsightly pens, enclosures and structures be repaired and maintained and that such structures be built of materials normally associated with the keeping or maintenance of animals.

d. Requiring routine cleaning and appropriate offsite disposal of litter, excrement and other objectionable material created by the keeping of dogs and cats.

Persons issued a permit shall be given a reasonable period of time, not to exceed ninety (90) days, within which to comply with any special conditions imposed in the permit, depending on how extensive the repairs and construction of enclosures will be and the expense of compliance.

(5) The permit issued pursuant to this section shall be a one-time permit which shall remain in full force and effect so long as the applicant and holder of the permit shall remain in compliance with the requirements of the permit, this chapter and the Town Code.

(6) No permit issued pursuant to this section shall be a defense to any action brought pursuant to Section 8-2022. The animal control officer may refuse to issue a permit, and after having issued a permit, may revoke the permit upon finding any of the following:

a. Any material misrepresentation in the application for a permit.

b. Any willful violation by the applicant or permittee of this chapter or of the Animal Welfare Act, G.S. 19A-20 et seq.

c. Any violation of the terms and conditions of the permit issued pursuant to the terms of this chapter.

d. Any violation of federal, state or local laws that relate to animals, zoning, nuisances or the condition of the property.

(7) Upon revocation of a permit, the dogs and/or cats in violation of this section must be removed from the lot within seven (7) days from the date the permittee is notified of the revocation.

(8) Any denial of an application for a permit shall be in writing and shall specify in detail the reasons for the denial and, if appropriate, how any deficiencies may be remedied. (Ord. of 6/4/18)

Sections 8-2031 through 8-2033 reserved.

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ARTICLE D
Licenses and Permits

Section 8-2034. Rabies.

It shall be unlawful for any person to own, harbor, possess or have in their care, custody or control any dog or cat, or any other animal that is over four (4) months of age that is required by law to be vaccinated and that has not been vaccinated against rabies in accordance with the requirements of the county rabies ordinance. The inoculation tag issued at the time of the inoculation shall be worn or displayed on the animal at all times or be immediately available to and promptly displayed by the owner or the person having the care, custody or control of such animal. Impounded animals or other animals in the custody or control of the animal shelter or animal enforcement officers that have not been inoculated or are not wearing the required rabies tag shall be inoculated as required by law. (Ord. of 6/4/18)

Sections 8-2035 through 8-2040 reserved.

ARTICLE E
Miscellaneous Regulations

Section 8-2041 Dangerous animals.

(a) Purpose. The purpose of this section is to protect people, especially the elderly and the young, from the injury caused by dangerous animals. This section is intended primarily to apply to dogs that bite or menace people but under appropriate circumstances can apply to an aggressive cat or any other animal that exhibits vicious characteristics.

(b) Prohibited. It shall be unlawful for any person to own, harbor, keep or possess within the town, any animal that has been declared to be dangerous in accordance with the procedures of this section unless such animal is being kept in strict compliance with the conditions of release, if any, issued as a part of the order of the animal control officer declaring the animal to be dangerous.

(c) Construction. This section is intended to establish a procedure for dealing with particularly dangerous dogs or other animals. Nothing in this section shall be construed to create a presumption that a dog or other animal that bites other people is permitted just because it has not been declared to be a dangerous or a potentially dangerous animal. Instead, this section is intended to set up special procedures and safeguards for animals that are especially dangerous.

(d) Initiation of proceedings. An animal control officer or any other adult person may request that an animal be classified as dangerous or as potentially dangerous as defined in this chapter by submitting a written complaint on the form issued by the Public Works Director. Upon receipt of the complaint, the owner shall be notified that a complaint has been filed and that an investigation into the allegations set forth in the complaint will be conducted.

(e) Summary impoundment. If during the initial investigation the animal control officer or other person conducting the investigation has credible evidence to believe that the animal is a dangerous or potentially dangerous animal and that the animal is not or cannot be adequately confined by the owner, then the animal control officer may impound such animal pending further proceedings. It shall be unlawful for any owner to conceal such animal or to refuse to permit such animal to be impounded pending further proceedings.

(f) Initial order. At the conclusion of the investigation, the Director of Public Works or the person designated to decide such issues shall review the investigative report and may:

(1) Determine that the animal is not dangerous and, if the animal has been impounded, waive any impoundment fees incurred and release the animal; or

(2) Determine that the animal is dangerous or potentially dangerous as defined herein and enter an order:

a. Establishing the terms and conditions under which the animal may be returned to its owner after all impoundment fees have been paid, or

b. Require that the animal be removed from the town, after impoundment fees have been paid, or

c. Require the humane destruction of the animal because of the species or breed of animal, the number of incidences, the severity of injuries caused, inappropriate ness of or lack of

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training of the animal, or the inability to restrain the animal, the safety of others and the protection of property cannot be assured.

(g) Service. An order, a notice or other document required to be served on an individual may be served as follows:

(1) The document may be served by the animal control officer, the Public Works Director, a Valdese Police Officer, the Town Manager, or any other person designated by the Town Manager to serve the document.

(2) An individual may be served by doing any of the following:

- a. delivering a copy of the document to the individual;
- b. leaving a copy of the document at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- c. by registered or certified mail, return receipt requested;
- d. by depositing with a designated delivery service authorized pursuant to 26 USC § 7502(F)(2) a copy of the document, addressed to the individual to be served, delivering to the addressee, and obtaining a delivery receipt. A "delivery receipt" includes an electronic or facsimile receipt; or
- e. by mailing a copy of the document by signature confirmation as provided by the United States Postal Service, addressed to the individual to be served, and delivering to the addressee.

(h) Hearing. At any time after notification that a complaint has been filed and that an investigation will be conducted, but not later than five (5) days after the service of the initial order, an owner may request in writing a hearing before the Valdese Town Manager. The request for a hearing shall be filed with the office of the Deputy Town Clerk. The hearing shall then be scheduled as soon as reasonably possible and notice of the hearing shall be issued to the person requesting the hearing. The owner shall have the right to appear and to offer such proof as may be relevant.

At the hearing, among other things, the following matters may be considered:

- (1) Investigative report and recommendation from the investigative officer.
- (2) Provocation.
- (3) Severity of attack or injury to a person or domestic animal.
- (4) Previous aggressive history of the animal.
- (5) Observable behavior of the animal.
- (6) Site and circumstances of any incident.
- (7) Written statements from interested parties.

(i) Decision. The Town Manager shall render his or her decision within five (5) days after the hearing. The decision shall be in writing and may affirm, vacate or modify any prior orders entered. A copy of the decision shall be provided to the owner in the same manner provided by paragraph (g) above.

(j) Appeal. Within ten (10) days after a copy of the decision is served upon the owner, the owner may appeal the decision to the Superior Court of Burke County by filing notice of appeal and petition for review. The appeal shall be heard "de novo" before a superior court judge.

An appeal shall not stay the impoundment of any animal pending such appeal but shall stay any order that an animal be destroyed. (Ord. of 6/4/18)

Section 8-2042 Restraint and confinement.

(a) Purpose. Some animals, especially dogs and cats, are dangerous or become a nuisance or are regularly at large in violation of this chapter because of the lack of concern by the owner or because the lot, pen or other enclosure is inadequate. In some instances, the animal simply has a propensity to escape from confinement. Under those circumstances, it is the purpose of this section to authorize animal control officers and other individuals charged with the responsibility of enforcing this chapter to recommend and if necessary to require that special preventive measures be taken by the owner to securely restrain or confine such animals. The owner may be required to install special fencing, provide better housing or take other measures reasonably intended to prevent such animals from escaping,

(b) Compliance required. It shall be unlawful for an owner of an animal to refuse or otherwise fail to comply with a written order issued in accordance with the requirements of this section.

(c) Investigation. After reasonable inquiry and investigation if it is determined that any animal is not adequately confined or is likely to escape from its house, pen, lot, pasture, enclosure or other place of confinement, an animal control officer may order the owner to comply with specific preventive measures as further set forth herein.

Prior to entering an order under this section, the animal control officer may consider, among other things, the following matters:

(1) The propensity of the animal to inflict injury including the animal's behavior, size and temperament,

(2) The likelihood that the conditions pertaining to the particular animals' confinement is detrimental to the safety and welfare of the citizens or the peace and tranquility of the immediate surrounding area, especially the presence of children under age seven (7), and

(3) The history of the animal for being aggressive and whether the animal has been trained for aggressive attacks.

(d) Order. If, after considering the factors specified above and any other relevant information, the animal control officer determines that the circumstances require special preventive measures, the animal control officer shall issue an order in writing making the appropriate findings and may require that one (1) or more of the following preventive measures be implemented by the owner:

(1) Repairs may be required to any fence, pasture, pen or enclosure.

(2) The height of any fence may be increased,

(3) Installation of anti-climb devices may be required.

(4) The fence may be required to be installed into the ground.

(5) The installation of a floor or a bottom to the enclosure and/or a top to the enclosure may be required.

(6) Special chains, leashes and/or muzzles may be required.

(7) The installation and use of special warning devices may be required.

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(8) The owner may be required to give immediate notice to the department of public safety in the event the animal escapes from its enclosure.

(9) Use of special markings on the animal tags, an animal collar or a tattoo may be required to identify the animal for future investigative or enforcement purposes.

(10) The purchase of special liability insurance in an amount not exceeding one hundred thousand dollars (\$100,000.00) at the owner's expense may be required.

(e) Service. An order issued under this section shall be served on the owner in the manner provided in Section 8-2041(g).

(f) Appeal. At any time after service of the order, but not later than five (5) days after service of the order, the owner may request in writing a hearing before the Valdese Town Manager. The request for a hearing shall be filed with the office of the Deputy Town Clerk. The hearing shall then be scheduled as soon as reasonably possible and notice of the hearing shall be issued to the person requesting the hearing. The owner shall have the right to appear, to make any statements, to provide affidavits and offer such other evidence as may be relevant. An appeal from the decision of the Town Manager shall be taken to the Superior Court of Burke County by filing notice of appeal and petition for review within ten (10) days of service of the Town Manager's order. The appeal shall be heard "de novo" before a superior court judge.

It shall be unlawful for any owner to fail or refuse to comply with any order issued under this section. (Ord. of 6/4/18)

Section 8-2043 Adequacy and location of shelter.

(a) Adequate shelter. The shelter in which a nonaquatic animal is confined shall be constructed so that it keeps the animal dry and, within reasonable efforts, keeps the animal out of the direct path of winds, out of the direct sun, and at a temperature level that is reasonable for the current weather. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow adequate retention of body heat. The shelter shall be completely enclosed by walls, a roof and a solid floor, and the shelter shall have an opening entrance large enough to allow access to the animal that is placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. Shelters shall have adequate drainage and shall be free of accumulated waste, feces, trash, debris and any other elements that the animal control officer deems to be unsafe to the health and well-being of the animal.

(b) Location. Structures for the confinement of an animal shall generally be located in a manner so that such structures do not become a nuisance to adjacent property owners because of odor, smell, noise or other factors that interfere with the right of the occupants of adjacent property to the full enjoyment of their property. (Ord. of 6/4/18; Res. of 9/3/19)

Section 8-2044 Bird sanctuary; protection of bird life.

(a) Established. The area included within the corporate limits of the town, as extended from time to time, and all lands owned or leased by the town outside the corporate limits are hereby designated as a bird sanctuary.

(b) Protected. It shall be unlawful to trap, hunt, shoot or otherwise kill any native wild bird within the territory described in paragraph (a) except when such birds or fowl are found to be congregating in such numbers in a particular location that they constitute a nuisance or a menace to health or property and only then if the consent of the department of public safety is first obtained, or (b) except as otherwise permitted by law. (Ord. of 6/4/18)

Section 8-2045 Zoning rules applicable.

The keeping of animals within the town shall at all times be in full compliance with the town zoning ordinance. The breeding and raising of animals shall be in compliance with the rules and regulations of the zoning district in which the activity takes place. (Ord. of 6/4/18)

Sections 8-2046 through 8-2050 reserved.

ARTICLE F
Enforcement

Section 8-2051 Impoundment.

(a) In addition to any other remedies provided in this chapter, an animal control officer may seize, impound and humanely confine to an animal shelter or to a veterinarian hospital any of the following animals:

- (1) Any dog, cat or other animal that is required to be inoculated and have a rabies tag that either has not been inoculated or does not display a rabies tag;
- (2) Any animal at large;
- (3) Any animal constituting a public nuisance or considered a danger to the public;
- (4) Any animal that is in violation of any quarantine or confinement order;
- (5) Any unattended animal that is injured, diseased, obviously ill or otherwise in need of immediate veterinary care;
- (6) Any animal that is reasonably believed to have been abused or neglected;
- (7) Any animal that is reasonably suspected of having rabies or any other disease that is communicable;
- (8) Any animal that is charged with being potentially dangerous or dangerous where an animal control officer of the Town Manager determines that there is a threat to public health and safety;
- (9) Any animal that a court of competent jurisdiction has ordered impounded or destroyed;
- (10) Any animal that is reasonably believed to be unattended or abandoned, as in situations where the owner is deceased, has been arrested or has been evicted from his residence;
- (11) Any wild or exotic animal except as may be specifically permitted in this chapter;
- (12) Any guard dog, attack dog or dog that has been trained to be aggressive that has not been registered in accordance with the provisions of this chapter;
- (13) Any animal that does not have a permit required by this chapter;
- (14) The animal of any owner who refuses to comply with a preventive order issued under the provisions of this chapter; or
- (15) Any animal that has recently bitten any person.

(b) Custody. Any animal impounded hereunder shall be kept and shall remain in the custody of the animal shelter until:

- (1) The animal is redeemed in accordance with the provision of this section;
- (2) The animal is released pursuant to an order by any appropriate official or judicial officer;
- (3) The animal is adopted in accordance with the provisions of this section; or
- (4) The animal is humanely destroyed (euthanized) in accordance with the provisions of this section.

If not previously notified and if the owner can be reasonably identified, the owner of an impounded animal shall be notified by any reasonable means that his or her animal has been

seized and that the animal can be claimed or redeemed in accordance with the terms of this section.

Animals seized for violations of the provisions of this chapter dealing with rabies shall be held for observation for ten (10) days. Any other animal seized pursuant to this chapter shall be held for a minimum of five (5) working days (days during which the animal control shelter is open for business). In the event the animal has been impounded pursuant to the terms of an impoundment order issued under the provisions of this chapter or by order of any court, the animal shall be retained by the animal shelter for the period set forth in such order.

(c) Redemption. At the end of any required period of impoundment, an owner may redeem his or her animal upon compliance with the following conditions:

(1) The owner shall pay all impoundment fees, boarding fees, veterinarian fees, inoculation fees and other similar charges.

(2) The person redeeming the animal shall provide credible evidence that he or she is the owner.

(3) The person redeeming the animal is, in the opinion of the animal control officer, qualified to own an animal, is not under eighteen (18) years of age and does not have a record of abuse and cruelty to animals.

(4) The person agrees to abide by the terms and conditions of release set forth in any order of impoundment.

(5) The person complies with the other procedures established by the animal control officer for the release of animals including an acknowledgment of ownership, a receipt and proof of identity.

(d) Adoption or euthanasia. After the redemption period has expired, all ownership rights to the impounded animal shall be forfeited. In the discretion of the Animal Control Officer, such animals may:

(1) Continue to be held for a reasonable period of time for adoption in accordance with the policies and procedures established by the Director of Public Works including the payment of all required fees;

(2) The animal control officer may place the animal with a local humane society for future adoption; or

(3) May cause the animal to be destroyed in a humane manner approved by the Director of Public Works.

(e) Fees. In connection with the impoundment and subsequent release of any animal, the town may require reimbursement for any inoculation or veterinarian charges or similar expense incurred and may impose a reasonable boarding fee, adoption fee, redemption fee or other administrative fee as may be set forth in the published schedule of fees and charges adopted by the Town Council from time to time.

(f) County shelter. The impoundment, adoption, redemption or euthanasia procedures of this section are intended to apply to any animal shelter that is operated by or subject to the control of the town. Those procedures are not intended to be binding upon any county operated shelter or any other private shelter operated by any public or private entity. For animals that are impounded in those shelters, both the owner of the animal and the animals shall be subject to the rules, regulations and fees concerning impoundment, adoption,

redemption or euthanasia procedures that are issued by the governing body of that facility. (Ord. of 6/4/18)

Section 8-2052 Powers.

It is intended that animal control officers and other personnel assigned to enforce this chapter shall have a broad range of power to carry out the provisions of this chapter and discretion in the use of an appropriate remedy for violations. Animal control officers shall have the power to initiate investigations, not only when complaints are received, but also as a result of their own knowledge and observation of facts and circumstances.

Animal control officers may take notice of facts and information in plain view in automobiles, in the yards surrounding houses and in other areas that can be readily observed without intrusive investigations, and as a result of those observations may take appropriate enforcement action including the impoundment of animals when violations are observed or the issuance of any other order permitted hereunder.

With the consent of property owners and individuals apparently in charge of the premises, animal control officers may investigate the conditions and circumstances inside of locked fences, outbuildings, houses, apartment units, condominium units or other buildings and as a result of such investigations may impound animals or take other appropriate enforcement action.

In the event circumstances are not plainly observable or in the event access to enclosed premises is denied, animal control officers may seek the assistance of police officers and other sworn personnel, may obtain search warrants and may conduct other lawful searches of such premises. (Ord. of 6/4/18)

Section 8-2053 Conflicts.

This chapter anticipates that the town will not operate its own animal control shelter. However, the town reserves the right to use the impoundment services of a county operated shelter or a shelter operated by some other public or private entity. In that event, the procedures concerning the confinement of animals, the adoption or redemption of animals, the humane destruction of animals and the fees associated with each of those services may be different and in conflict with this chapter and the policies and procedures issued pursuant to the authority of this chapter. If the town elects to use the services of a separate county or private animal shelter, then, and in that event, the policies, rules and regulations and other conditions issued by that facility shall be controlling and take precedence over this chapter and any rules and regulations issued under this chapter. The owner of any animal impounded or confined to such facility shall likewise be subject to the policies, rules, regulations and conditions imposed by that shelter and that facility is hereby granted jurisdiction to hold, adopt, redeem, release or destroy such animals in the manner prescribed by that facility as if the same were required under this chapter.

The Town Council may designate some other board or agency to conduct such hearings and to review such determinations, the procedural rules and regulations issued by that designated agency shall be controlling and that agency is granted the jurisdiction and full authority under this chapter to discharge all of the powers granted in G.S. Chapter 67 or under this chapter or under any other state or local law governing animals. (Ord. of 6/4/18)

Section 8-2054 Remedies.

Consistent with the general law of the State of North Carolina, it is intended that the town shall have broad powers to enforce this chapter, including the power to impose criminal fines and penalties as well as civil penalties for the violation of this chapter. The town may also secure injunctions or abatement orders, or may pursue any other legal or equitable remedy. (Ord. of 6/4/18)

Section 8-2055 Penalties.

(a) ~~Misdemeanor. A violation of this chapter is a misdemeanor or infraction as provided by G.S. 14-4 and is punishable by a maximum fine, term of imprisonment or infraction penalty, all as imposed and set forth in G.S. 14-4, which is incorporated herein by reference. A violation of this chapter shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate a provision of this chapter enforceable as a criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

(b) Civil citations. In addition to the criminal penalties imposed in subsection (a) above, a violation of this chapter shall also be a civil offense and shall subject the offender to a civil penalty. Each day's offense shall be a separate offense for which a separate civil citation may be issued. Unless otherwise specifically provided in the schedule of fees and charges adopted annually by the Town Council, the penalty shall be fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, two hundred dollars (\$200.00) for the third offense and three hundred dollars (\$300.00) for the fourth and any subsequent offense. (Ord. of 6/4/18)

CHAPTER 3
Abandoned, Nuisance and Junked Motor Vehicles

- Section 8-3001 Administration.
- Section 8-3002 Definitions.
- Section 8-3003 Abandoned vehicle unlawful; removal authorized.
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ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

Section 8-3001 Administration.

The police department, fire department, and code enforcement officer of the town shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town and on property owned by the town. The Town Council, with the assistance of the code enforcement officer, town planner, or fire department, shall be responsible for administering the removal and disposition of "abandoned," "nuisance" or "junked motor vehicles" located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of the town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

(Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3002 Definitions.

For purposes of this chapter, certain words and terms are defined as herein indicated:

(a) Abandoned vehicle. As authorized and defined in G.S. §160A-303, an abandoned motor vehicle is one that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or

(2) Is left on a public street or highway for longer than seven (7) days; or

(3) Is left on property owned or operated by the town for longer than twenty-four (24) hours; or

(4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

(b) Authorizing official. The supervisory employee of the police department or the code enforcement officer, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

(c) Motor vehicle or vehicle. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(d) Junked motor vehicle. As authorized and defined in G.S. §160A-303.2, the term "junked motor vehicle" means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500).

(e) Nuisance vehicle. A vehicle on public or private property that is determined and declared to be a health or safety hazard or a public nuisance, or unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or

(2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or

(3) A point of collection of pools or ponds of water; or

(4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor, visible presence; or

(5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, passenger interior, or other interior sections, etc.; or

(6) So situated or located that there is a danger of it falling or turning over; or

(7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

(9) So offensive to the sight as to damage the community, neighborhood or area appearance; or

(10) Used by children in play activities; or

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(11) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the town council. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3003 Abandoned vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

(b) Upon investigation, proper authorizing officials of the town or code enforcement officer may determine that a vehicle is an abandoned vehicle and order the vehicle removed. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3004 Nuisance vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(b) Upon investigation, the code enforcement officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3005 Junked motor vehicle regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) Subject to the provisions of subsection (c), upon investigation, the code enforcement officer may order the removal of a junked motor vehicle as defined in this article after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(c) Permitted concealment or enclosure of junked motor vehicle: Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means one which is erected pursuant to the lawful issuance of a zoning permit and a building permit which has been constructed in accordance with all zoning and building code regulations. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3006 Declared to be a health or safety hazard.

Any partially dismantled or wrecked vehicle, vehicle which is incapable of self-propulsion or being moved in the manner for which it was originally intended, vehicle left on private property without the consent of the owner, occupant or lessee thereof, or any junk motor vehicle is declared to be an attractive nuisance for children, a breeding place for rats and vermin, and a potential fire hazard. All vehicles abandoned upon privately owned property, which have been abandoned for as long as 30 days are declared to constitute a health and safety hazard. (Ord. of 5/6/19)

Section 8-3007 Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.

Except as set forth in section 8-3008 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner, or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, notice shall be given by first class mail (or any other method authorized for service by North Carolina Rules of Civil Procedure). The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to whom the notice is mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

An order to remove abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, may be appealed by the registered owner or person entitled to possession, does not remove the vehicle, but chooses to appeal, within the time period stated in the notice by appearing before the BOA. Such appeal shall stay the order of removal until final determination by the BOA. The appeal shall consider the determination that the vehicle is abandoned, or in the case of a nuisance vehicle, or in the case of a junked motor vehicle, that the aesthetic benefits of removing the vehicle outweigh the burdens. In the event no appeal is taken within the time period stated in the notice to remove, the code enforcement officer may proceed to remove the vehicle. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3008 Exceptions to prior requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official or code enforcement officer, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

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(1) Vehicles abandoned on the streets within the town. For vehicles left on the public streets or highways, the Town Council hereby determines that immediate removal of such vehicles therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area may be warranted when they are:

- a. Obstructing traffic;
- b. Parked in violation of an ordinance prohibiting or restricting parking;
- c. Parked in a no-stopping or standing zone;
- d. Parked in loading zones;
- e. Parked in bus zones; or,
- f. Parked in violation of temporary parking restrictions imposed under code sections.

(2) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on town- owned property, other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice; only in those circumstances where the authorizing official or code enforcement officer finds a special need for prompt action to protect and maintain the public health, safety and welfare. Therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3009 Removal from private property.

Before any vehicle may be removed by the town from private property as defined above to be abandoned, junk or nuisance, the owner of the real property on which any such vehicle is located must be given at least five days' written notice from the town of the vehicle removal. The owner may request in writing that the code enforcement officer review the determination that the vehicle to be removed is in violation of the ordinance. No such vehicle shall be removed from privately owned premises without the written request of the owner, lessee or occupant of the premises on which the vehicle is located unless the vehicle has had the status of an abandoned vehicle on such privately owned premises for as long as 30 days and has, therefore, become a health and safety hazard in accordance with the declaration of the Town Council as set out in section 8-3006. When a vehicle is removed from privately owned property at the request of a person, the person at whose request such vehicle is moved shall indemnify the town against loss or expense incurred by reason of removal, storage or sale thereof. (Ord. of 5/6/19)

Section 8-3010 Removal of vehicles; post- towing requirements.

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or agent.

If the vehicle is registered in North Carolina, notice shall be given to the registered owner within twenty-four (24) hours after vehicle is removed. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

(Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3011 Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause exists for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated in G.S. § 20-219.11(c) to receive such hearing requests, the magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11 as amended.

(Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3012 Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to possession of the vehicle shall not allow or engage in further violations of this article. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3013 Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession, will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in

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coordination with the town and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes, except no probable cause hearing in addition to the hearing provided for in section 8-3011 is required. (Ord. of 2/5/90; Ord. of 5/6/19)

State Law reference–Disposal of abandoned, nuisance or junked motor vehicle, by tow truck operator or towing business, G.S. Art.1, Ch. 44A.

Section 8-3014 General penalty.

~~(a) Except as set forth in subsection (b), violation of any provision of this code or any other town ordinance shall be a misdemeanor as provided by G.S. § 14-4(a).~~

~~(b)~~ Violation of any provision of this ~~Code chapter~~ shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Citation shall be in writing, signed by the code enforcement officer and shall be delivered or mailed to the offender either at the residence or at the place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such civil penalty may be joined in action for appropriate equitable or other legal remedy, including injunctions and orders of abatement and including an action to recover damages owing to the town by reason of expenses incurred by the town in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action. (Ord. of 5/6/19)

Section 8-3015 Exceptions.

Nothing in this article shall apply to any vehicle:

(1) Regulated under G.S. § 160A-303.2 which is kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, in accordance with the "Junkyard Control Act," G.S. § 136-141, et seq., or the removing or disposing of any motor vehicle that is used on a regular basis for business or personal use; and

(2) Regulated under G.S. § 160A-303 which is in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the town. (Ord. of 2/5/90; Ord. of 5/6/19)

Section 8-3016 Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility, designated by the town, any vehicle which has been impounded pursuant to the provisions of this code, unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid. (Ord. of 2/5/90; Ord. of 5/6/19)

State Law reference–Definition of junkyard, G.S. § 136-143, Junkyard Control Act, G.S. Junkyard Control Act, G.S. §136-141.

Section 8-3017 Protection against criminal or civil liability.

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No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter. (Ord. of 2/5/90; Ord. of 5/6/19)

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CHAPTER 4

Nuisances Related to Property

- Section 8-4001 Definitions.
- Section 8-4002 Nuisance.
- Section 8-4003 Exceptions.
- Section 8-4004 Notice.
- Section 8-4005 Removal or abatement of nuisances.
- Section 8-4006 Chronic violator.
- Section 8-4007 Removal or abatement of other conditions.
- Section 8-4008 Appeal.
- Section 8-4009 Removal by town.
- Section 8-4010 Emergency action.
- Section 8-4011 Penalties.
- Section 8-4012 Right of entry.
- Section 8-4013 Cost of abatement declared lien.

Section 8-4001 Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates that a different meaning is intended:

Agent means the person who manages or has custody of a business building or the person to whom rent thereon, if any, is paid.

Apartment or apartment house or tenement house means every house, building, or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house, home or residence of more than two families, living independently of each other and doing their cooking on the premises, or by more than one family upon a floor, so living and cooking, but having no common right in the halls, stairways, yards, water closets or privies.

Ashes means the residue from the burning of wood, coal, coke or other combustible material. "Ashes" shall not include cremated human remains.

Attached business unit means a structure of two or more business offices constructed as one unit, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Brushwood means large, heavy yard trimmings resulting from heavy pruning or shrub removal with maximum six-inch diameter at large end;

Building material means lumber, brick, stone, dirt, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures or demolition of such.

Bulk container means a commercially made metal container designed to store and hold rubbish and solid waste until the same can be collected for disposal,

generally having a capacity of not less than four cubic yards nor more than eight cubic yards and capable of being serviced and emptied by automated machinery.

Bulk service means a customer that stores and disposes of rubbish and solid waste in a bulk container.

Business building means any structure, whether public or private, in the town that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise or for the performance of work or labor, including, but not being limited to, hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories in business areas and all outhouses, sheds, barns and other structures on premises used for business purposes.

Collection means the act of removing solid waste from a point of generation to an approved disposal site. Collection on private property means the act of removing solid waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the property manager and the town manager or appointed designee for automated collection.

Commercial establishment means any structure or location, whether public or private, that is adapted for occupancy for the transaction of business, for the rendering of professional services, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotel rooms, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, sheds, barns and other structures on premises used for business purposes. "Commercial establishment" shall also include churches, houses of worship or other religious or eleemosynary institutions, regardless of size.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Construction and demolition waste means solid waste incident to maintenance, remodeling or new construction, including, but not limited to, mineral matter, wood, sheetrock, shingles and metal, but specifically excluding any substance which is contaminated by asbestos, lead based paint, or any other substance the disposal of which is regulated as a toxic or hazardous material.

Disabled person means any person who by reason of infirmity or other physical or mental impairment is incapable of complying with the provisions of this chapter as it relates to the placement of refuse containers curbside. Included in the definition are children 12 years of age and under.

Family living unit means, but is not limited to, single- family residences, single mobile homes, single-family living units in duplexes, apartments, and other multifamily dwellings, but shall not include hotels or motels;

Fee means that charge by the town associated with a good or service provided to or for the benefit of a customer.

Garbage means all putrescible wastes except sewage and body wastes, including all meat, vegetables and fruit refuse commonly resulting from the handling, preparation, cooking and consumption of food, from or on any premises within the town limits.

Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, sidewalks, streets, structures, or places which such marking are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of the materials used in the act.

Nothing in this chapter shall be construed to prevent temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with typical children's activities, such as drawings, or bases for stick ball, kickball, handball, hopscotch or other similar activities. Nothing in this chapter shall be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.

Hazardous household waste means any of the following materials, existing in a home because of their use in that home: pesticides; herbicides; petroleum products (epoxy resins, coal tar, polishes, thinners, mineral spirits, varnish, grease, caulking materials); solvents; acids (muriatic, hydrochloric, sulfuric, phosphoric); poisons (arsenic, lead, chrome and warfarin compounds); alkaline material (photo developers, sodium hydroxide, bleaches); oil based paints and stains, but not latex paints; batteries of all kinds, for cars, flashlights, smoke detectors, hearing aids, toys, watches and similar batteries; antifreeze; and used motor oil.

Hazardous material or hazardous waste. The following is an explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by the EPA regulations. Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), and explosives.

Health official means the chief health official of the County Health Department or any health department including county or any person whom he has authorized to perform any of the powers or duties conferred upon him by this article.

Hotels and motels mean places of business whose primary business and the one in which they are normally and customarily engaged in supplying temporary living quarters with limited family living facilities for short periods of time.

Household sharp medical waste means any type of product capable of puncturing or lacerating the skin that is designed or used to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.

Industrial and commercial waste means those wastes, including solids, semisolids, sludge and liquids generated by an industry, commercial establishment or other manufacturing enterprise that is not classified as a hazardous waste or requires special handling such as oils, acids, etc.

Infectious waste means a solid waste capable of producing an infectious disease. Examples of waste designated as infectious are: micro-biological waste, pathological waste, blood products, improperly packaged sharps and all other waste as defined in the medical waste management regulation under 15A NCAC 13B.1200 in North Carolina Solid Waste Management rules.

Liquid waste means any waste material that is determined to contain free liquid as defined in Method 9095, Paint Filter Liquid Test, as described in Test Methods for Evaluating Solid Waste, Physical/Chemical Method, as published in the Environmental Protection Agency Publication No. SW-846 or any successor or equivalent publication.

Litter means any discarded man-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter and not properly containerized or prepared for collection and disposal.

Multifamily residential unit means two or more single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses, or condominiums. Duplexes/ triplexes built on public streets are not considered multifamily residential units.

Nuisance means any condition or use of property, or any act or omission affecting the condition or use of property, which directly threatens the safety of citizens; adversely affects the general health, happiness, security and welfare of others; or is detrimental to the rights of others to the full use of their own property and their own comfort and happiness because of decreased property values and the unattractiveness and livability of neighborhoods. Further, the Town Council finds and declares that the following specific conditions are prejudicial to the general health, safety and welfare of the town and its citizens; lessen the attractiveness and livability of the town; and, when located on any lot or parcel of land within the town limits, are a nuisance.

Occupant means the individual, firm, partnership or corporation that has the use of, controls or occupies any business building, apartment house or tenement house, or any portion thereof, whether owner or tenant. In the case of vacant business buildings, apartment houses or tenement houses, or any vacant portion of a business building, apartment house or tenement house, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

Occupant means the person who has the use of or occupies any business building or any part thereof, or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, or in case of occupancy in whole or in part by the owner and agent of the building, such owner or agent shall be deemed to be and shall have the responsibility of an occupant of such building.

Open place shall constitute any portion or area of a property not enclosed by walls, this shall include, but not be limited to, carports, patios, porches, decks, terraces, lean-tos, outbuildings, and the like, which are exposed to the exterior and/or public view, including, but not limited to, front, side, and/or rear yards. Tarps, plastic sheeting, canvas sheeting, unfinished building materials or the like shall not constitute walls.

Opening means any opening in foundation, sides or walls, ground or first floor or basement, including chimneys, eaves, grills, windows, ventilators, walk grates, elevators and any pipes, wires or other installations through which a rat may enter.

Owner means the person owning the business building or premises, or agent of the building or premises, or the person to whom rent is paid; whether an individual, firm, partnership or corporation. In the case of business buildings leased or rented with a covenant in the lease or other agreement under which the lessee is responsible for maintenance and repairs, the lessee shall also be considered in such cases as the owner for the purpose of this chapter.

Physical disability means a medical condition, verified by a registered physician, that makes an individual physically unable to bring the automated refuse/ automated recycling container to the curbside for collection and where there is no one else residing in the household capable of taking the containers to the curbside.

Premises means business houses, boardinghouses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafes, bars, eating houses, hospitals, schools, private residences, mobile home parks, vacant lots and other places where garbage, trash or rubbish accumulates.

Private property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Private street means a street not open to public use, on private property, and not maintained by any governmental agency.

Public property means all that property except private property as herein defined, including but not limited to highways, streets, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Public street means the entire width between property lines, whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

Qualifying customer means a single-family detached home, duplex, or condominium regardless of the size of complex, or an apartment, tenement house or townhome which, when combined with all other units located on the premises, is comprised of not more than six family living units.

Rat eradication means the removal, killing, destruction and extermination of rats by systematic use of traps or by poisons and by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind, including, but not limited to, conditions on vacant lots, creeks, branches, ditches, rubbish heaps, junkyards and any other places inside or outside of structures which afford shelter or provide a place or situation favoring the breeding, multiplication or continued existence of rats.

Rat stoppage or rat-proofing means a form of construction to prevent ingress of rats into business buildings from the exterior or from one building to another; it consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior walls,

ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground, by climbing or by burrowing.

Refuse means all solid wastes, including garbage, rubbish and trash.

Rollout container means a plastic or fiberglass container, having wheels for ease of movement and a lid which securely covers the bin designed to keep flies and other vermin from refuse, which is approximately 95 gallons in size and designed for the automatic collection of refuse by town machinery.

Rubbish or trash means matter that is worthless or useless or of no substantial, practical value or matter that is of value only when it has decayed or has been recycled. Rubbish is solid waste, exclusive of garbage or ashes, including, but not limited to, leaves, pine needles, twigs, limbs and other such parts of trees not useful as timber and shall include the trunks and limbs of trees, even though useful for timber, when the same have been blown down or felled, either partially or totally, and which have become dried and flammable; tin or aluminum cans, bottles, papers, paper boxes or cartons, small light wood or crafting materials, rags, excelsior, rubber, leather, metals, wire or wire scraps, glass and crockery, but shall not include salvage automobiles, buses, or other items which in the judgment of the town is likely to cause damage to equipment of the town or injury to employees of the town, or is likely because of the nature, size or weight of the material, to handicap or overburden the automated equipment.

Sharps container means a container specifically manufactured for the disposal of sharp medical waste.

Single business unit means any single nonresidential unit that generates no more garbage per week than can be placed or stored in a maximum of one rollout container with a total capacity of no more than 95 gallons when accumulated between collections, such as a dental office, medical office, insurance office or another business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Single-family residential unit means any dwelling place occupied by one family and not defined as a multifamily residential unit.

Solid waste means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation, rubbish, garbage, commercial and industrial waste, scrap materials, junk, refuse, demolition and construction debris and landscape refuse, but shall not include sludge from air or water pollution control facilities, septic tank sludge or agricultural or unacceptable waste.

Solid waste disposal facility means any land or structure or combination of land area and structures, including dumps, landfills and transfer stations used for storing, transferring, collecting, separating, processing, recycling, recovering, treating, salvaging, reducing, incinerating or disposing of solid wastes.

Stationary bulk compactor means any town approved container made of watertight construction that contains a packing mechanism and an internal or external power unit, and constructed so that the container can be emptied mechanically by means of automated equipment for the purpose of collection of solid waste.

Town home or town house means an apartment or other family living unit which is capable of ownership separate and apart from other portions of the structure to which it is conjoined

or of which it may be a part, but of which there is no ownership interest in the common areas of the facility in the owner of the individual dwelling unit.

Unacceptable waste means items which are not appropriate for disposal through this means and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

Unit means one single-family residence or an individual apartment, motel room or suite, mobile home, townhouse, patio house, condominium, cluster home in a multifamily residence, unless otherwise specified by the town.

Waste means all useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural and residential activities.

White goods mean large household appliances, regardless of actual color, including, but not limited to, refrigerators, stoves, washers, dryers, etc.

Yard waste means vegetative matter and other materials generated while providing normal maintenance to the yard areas adjacent to a single-family residential unit without earth, soil or other mineral matter attached thereto, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, and shrubs. This shall not include plastic or synthetic fibers, lumber, rocks, gravel, dirt or tree or shrubbery remains except as specifically authorized herein, or soil contaminated with hazardous waste.

(Res. of 5/6/19)

Section 8-4002 Nuisance.

Any condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the town and a public nuisance by the Town Council or is in violation of any town, county or state health regulation is considered to be a nuisance, as follows, but not limited to:

(1) Unfit Habitat

(a) Whatever renders the air, food or water unwholesome.

(b) Whatever building, erection, structure or part of cellar thereof is overcrowded or not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, drained, cleaned or lighted.

(c) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety or welfare of citizens and the peace and dignity of the town.

(2) Unsanitary, stagnant, or inhibited water

(a) Any stagnant water, to include all cellars and foundations of houses whose bottoms contain stagnant or putrid water.

(b) Disease vectors. An open place of collection of water where insects tend to breed; permitting of any stagnant water, filth or any other matter harmful to health or comfort to remain on the premises of the owner or premises under control by the owner or person in control within the corporate limits after twenty-four (24) hours' notice of such condition;

(c) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall

discharge any petroleum products, chemicals or other such substances which would or could pollute any creek or stream within the zoning jurisdiction of the town.

(d) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the town by throwing or placing stumps, brush, rubbish, litter or other material within or along the banks of any such stream or natural drainage way.

(e) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other town-owned property of any kind; provided, that the notices required and powers conferred by this chapter by and on the public official in abating the nuisances defined by this paragraph shall be given and exercised by the town manager or the director of public works;

(3) Rats, snakes, carcass and feral animals:

(a) Any building or premises which is constructed or maintained in such a manner so as to provide food, shelter or protection for rats.

(b) Firewood, if stored outdoors, shall be stacked orderly to prevent wildlife habitat.

(c) Hides, dried or green, provided the same may be kept for sale in the town when thoroughly cured and odorless;

(4) Junk:

(a) Any furniture originally intended for indoor or interior use, outdoor furniture in disuse or disrepair,

(b) Seating removed from motor vehicles,

(c) Storage containers,

(d) Automotive parts and/or supplies,

(e) Inoperable appliances, exercise equipment.

(f) Other metal products of any kind or nature kept within an open place which have jagged edges of metal or glass, or areas of confinement.

(g) Junked motor vehicles on public grounds and private property (Reference Chapter 3: Abandoned, Nuisance and Junked Motor Vehicles).

(5) Plant Overgrowth

(a) Weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 8 inches in height on the average or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter or as a fire hazard.. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this section. This provision shall not apply to lots greater than one acre, but shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if and only if the adjacent property is occupied by a dwelling or other structure located within 50 feet of such property. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consists of ravines, creek banks, or severe slopes which may cause the maintenance to be dangerous or unsafe. Furthermore, this provision will not apply to vacant lots that are larger than three acres in size (i.e., golf courses, farmland, vineyards, etc.). Natural means of plant removal is permitted on parcels of land greater than 200 acres;

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(b) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;

(c) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus Toxicodendron*), in a location likely to be accessible to the general public;

(d) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 feet to such street, alley or sidewalk, or any of the above- mentioned vegetation that obscures clear vision as located within the protected sight distance triangle.

(6) Trash and waste. The storage of garbage and trash in containers as prescribed by this chapter and the regular collection thereof by the town upon payment of fees and charges as provided in this chapter are hereby declared to be essential to the efficient operation of the town and to the prevention of disease and protection to the public health. Any accumulation of rubbish or trash causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind.

(a) Scattering of garbage or trash, storage of garbage or trash except in containers as provided by this chapter, or the accumulation of trash by reason of nonpayment of fees or charges for its removal is hereby declared to be a nuisance and a violation of this chapter.

(b) Under no circumstances shall trash or garbage be allowed to accumulate or be stored for a period longer than 30 days.

(c) Under no circumstances shall trash or garbage be dumped or stored on any right of way or in any alley or on any lot without being placed in proper containers as prescribed herein.

(d) No industrial wastes, manure, debris from construction or repair work, leaves, trees or tree trimmings may be dumped or stored on any within any right of way or in any alley.

(e) No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.

(f) An open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind.

(7) Public streets maintenance

(a) Failure to clean or clear a public street, property, and adjoining sidewalks of any earth, sand or mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the town for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the town that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable. This provision does not preempt any applicable federal, state, or county regulations applicable to said events.

(b) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(8) Odor

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(a) Unsightly litter, foul or offensive odors which remain upon or emanate from a property.

(b) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.

(9) Construction materials: Lumber and building supplies, earth, sand and/or gravel on construction sites where the work is discontinued for a period of 60 days.

(10) Graffiti, It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti.

(11) Animals sanitation:

(a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposed of in a lawful manner.

(b) Any person, while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall have in possession a bag or other container that closes, which is suitable for removing feces deposited by the dog.

(c) The provisions of this Section shall not apply to visually impaired persons using dogs as guides.

(12) Abandoned Manufactured Homes, reference Part 9, Chapter 11.

State Law reference—Similar provisions, G.S. §160A-193.

(Res. of 5/6/19)

Section 8-4003 Exceptions.

Exceptions. The provisions contained in subsection 8-4002(4), Junk, and (6), Trash and debris, shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects and who have obtained all applicable zoning and operating permits and are following all applicable ordinances contained within the Code of Ordinances and the Zoning Ordinance. In addition, the provision contained in subsection 8-4002(7)(a) shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized and maintained by the North Carolina Department of Transportation or the municipality.

(Res. of 5/6/19)

Section 8-4004 Notice.

(a) Whenever the code enforcement officer or appointed designee has determined that the conditions on a particular lot or parcel of land are a nuisance and should be abated or otherwise corrected, the code enforcement officer or appointed designee shall give notice to

the owner, lessee or other person in possession of the premises in writing setting forth the findings and describing the appropriate corrective action. The code enforcement officer or appointed designee may establish a deadline, not to exceed sixty (60) days, for the abatement of the nuisance.

(b) The notice may be served upon the owner, occupant or person in possession of the premises by at least one (1) of the following methods:

(1) By delivering a copy of the notice to the person or by leaving copies of the notice at the person's residence; or

(2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the person to be served and delivered to the addressee; or

(3) By delivering a copy of the notice to any official, employee or agent of a corporation, partnership or business; or

(4) If, after a due and diligent effort, the person cannot be located, by posting a copy of the written notice in a prominent place upon the real property.

(Res. of 5/6/19)

Section 8-4005 Removal or abatement of nuisances.

Upon investigation and discovery of any of the conditions deemed a nuisance, the code enforcement officer or appointed designee shall make a written report of his findings and may order that appropriate corrective action be taken, including the removal or abatement of such conditions by the person creating the nuisance or by the owner, occupant or other person in possession of the premises on which the nuisance is located. Prompt abatement is required within 10 days from the receipt of such written notice.

(Res. of 5/6/19)

Section 8-4006. Chronic violator.

The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.

State Law reference—Similar provisions, G.S. §160A-200.1

(Res. of 5/6/19)

Section 8-4007 Removal or abatement of other conditions.

Prior to ordering the removal of conditions which do not threaten the public safety or pose a general threat to the health, safety and general welfare of the citizens of the town, the code official or appointed designee shall first determine that such conditions are visible from adjacent property or from a nearby street or highway and that the benefits of removing or correcting the conditions outweigh the burdens imposed upon the private property owner. Such findings shall be based upon a balancing of the monetary loss of the owner against the

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corresponding gain to the public by promoting or enhancing the community, neighborhood or area appearance, including protection of property values, indirect protection of public health and safety, preservation of the character and integrity of the community and the promotion of comfort and quality of life of area residents.

(Res. of 5/6/19)

Section 8-4008 Appeal.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the code enforcement officer to the Board of Adjustment (BOA) by appearing before the BOA at the appeal hearing date and time given on said notice. The abatement of the nuisance will be postponed by the code enforcement officer until the final determination for the appeal is made by the BOA. The BOA will need to make a 4/5 finding to overturn the code enforcement officer's ruling. In the event no appeal is taken within the time period stated to abate, the code enforcement officer may proceed to abate the nuisance.

(Res. of 5/6/19)

Section 8-4009 Removal by town.

If any person, having been ordered to abate a public nuisance pursuant to this chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order, the designee may cause such condition to be removed or otherwise remedied by having employees of the town or contracted work go upon such premises and remove or otherwise abate such nuisance under the supervision of an official or employee designated by the code enforcement officer. Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the town, in writing, to remove such condition, the cost of which shall be paid by the person making such request. The town may require such requestor to deposit some or all of the estimated cost of such removal, prior to doing the work, or may require the requestor to execute an agreement giving security for the payment of such costs.

(Res. of 5/6/19)

Section 8-4010 Emergency action.

Notwithstanding the provisions of section 8-4009, the code enforcement officer or appointed designee shall have authority to summarily remove, abate or remedy or cause to be removed, abated or remedied, any condition that is dangerous or prejudicial to the public health or public safety.

(Res. of 5/6/19)

Section 8-4011 Penalties.

(a) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00). to be recovered by the town in a civil action in the nature of a debt if the offender does not pay within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Violators shall be issued a written citation ~~which must be paid within seventy-two (72) hours of receipt.~~ Such citation shall be served

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by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.

(b) Each day's continuing violation shall be considered a separate and distinct offense.

(c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

~~—(d) In addition to or in lieu of remedies authorized in subsections (a) and (c), violations of any articles of this chapter may be prosecuted as a misdemeanor or otherwise in accordance with G.S. § 160A-175.~~

~~(Res. of 5/6/19)~~

Section 8-4012 Right of entry.

The code official or appointed designee is hereby given full power and authority to enter upon the premises upon which a nuisance is found to exist under the provisions of this chapter for the purpose of abating the nuisance as provided in this chapter.

(Res. of 5/6/19)

Section 8-4013 Cost of abatement declared lien.

(a) The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the finance department or public services department to mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.

(b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes.

(c) The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter.

(d) All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any part of this ordinance shall be adjudged invalid, such adjudication shall apply only to such part so adjudged and the remainder of the ordinance shall be deemed valid and effective.

State Law reference—Authority for abatement of public nuisances, G.S. § 160A-193.

(Res. of 5/6/19)

CHAPTER 5 General Health Regulations

Section 8-5001 Unlawful to violate county health regulations.

Section 8-5002 Unlawful to interfere with health officer.

Section 8-5003 Right of entry.

Section 8-5004 Planting and protection of trees.

Section 8-5005 Expectorating in buildings.

Section 8-5006 Definitions.

Section 8-5007 Areas where smoking and the use of tobacco products and e-cigarettes are prohibited.

Section 8-5008 Areas where smoking and use of tobacco products and e-cigarettes are not prohibited.

Section 8-5009 Implementation requirements.

Section 8-5010 Signage.

Section 8-5011 Enforcement and penalties.

Section 8-5012 Severability; conflict of laws.

Section 8-5001 Unlawful to violate county health regulations.

It shall be unlawful for any person, firm or corporation to violate any lawfully adopted rule or regulation of the county board of health. The enforcement of this section shall be under the supervision of the county health officer.

Section 8-5002 Unlawful to interfere with health officer.

It shall be unlawful for any person to hinder, obstruct or delay the health officer or any of his assistants in the lawful discharge of their duties.

Section 8-5003 Right of entry.

With appropriate warrant or permission of the owner, the county health officer or any of his assistants shall have the right to enter any premises at any reasonable hour for the purpose of making the inspections or investigations.

Section 8-5004 Planting and protection of trees.

Citizens may plant trees in front of their lots and around their lots on the sidewalks under the supervision of the superintendent of public works, provided they shall not plant any that are detrimental to the town. No trees shall be planted in the streets or gutters except by public authority. No person shall cut or damage any trees or shrubs upon the rights of way of the town without the permission of the superintendent of public works or shall dig up or injure any tree or shall tack or post any advertisement upon the trees of the town.

Cross Reference: For tree regulations, see sections 8-8001 - 8-8019.

Section 8-5005 Expectorating in buildings.

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No person shall expectorate in or upon any building or premises except in receptacles provided for that purpose. (Code 1970, Sec. 12-7)

Section 8-5006 Definitions.

(a) E-cigarette shall mean any noncombustible product that employs a heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge. The term includes an electronic cigarette, electronic cigar, electronic cigarillo and electronic pipe. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug and Cosmetic Act.

(b) Smoking shall mean the use or possession of a lighted cigarette, lighted cigar, lighted pipe, or any other lighted tobacco product.

(c) Tobacco product shall mean any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component part of accessory of a tobacco product, including but not limited to cigarettes, cigars, little cigars, cheroots, stogies, periques, granulated, plug cut, crump cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobacco, shorts, refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco. A tobacco product excludes any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and being marketed and sold solely for such an approved purpose.

(d) Town Building shall mean a building owned or leased by the town and occupied, managed or controlled by the town including, but not limited to, the Old Rock School building and the Valdese Community Center.

(e) Town grounds shall mean all unenclosed areas owned, leased, or occupied by the town.

(f) Town park or sports facility shall mean a park or a sports facility owned, leased or operated by the town including, but not limited to, Valdese Community Center, McGalliard Falls Park, Children's Park, Fletcher Ball Park, the track and football facility located behind the Old Rock School including Joe Temple Field and Michael Jeffrey Morse Field House, Valdese Family Splash Park, and Lakeside Park.

(g) Town vehicle shall mean a passenger carrying vehicle owned, leased or otherwise controlled by the Town and assigned permanently or temporarily to town employees, agencies, institutions, or facilities for official town business.

(h) Universal "No-Smoking and Use of Tobacco Products Prohibited" Symbol shall mean a symbol consisting of a pictorial representation of a burning cigarette and tobacco product enclosed in a red circle with a red bar across it.

(Ord. of 6/27/11; Res. of 9/8/15; Res. of 2/4/19)

Section 8-5007 Areas where smoking and the use of tobacco products and e-cigarette are prohibited.

Smoking and the use of tobacco products and E-cigarette are prohibited in the following locations:

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- (1) Town buildings;
- (2) Town grounds;
- (3) Town vehicles; and
- (4) Town parks and sports facilities.

(Ord. of 6/27/11; Res. of 9/8/15; Res. of 2/4/19)

Section 8-5008 Areas where smoking and use of tobacco products and e-cigarettes are not prohibited.

Smoking and the use of tobacco products and e-cigarettes is not prohibited in private vehicles while parked within a Town park or sports facility or anywhere else where smoking and the use of tobacco products and e-cigarettes is otherwise prohibited by this section.

(Ord. of 6/27/11; Res. of 9/8/15)

Section 8-5009 Implementation requirements.

(a) The town shall post signs that meet all the requirements of Section 8-5010.

(b) Town employees shall make every effort to insure compliance with this policy, including contacting law enforcement personnel if necessary.

(Ord. of 6/27/11; Res. 9/8/15)

Section 8-5010 Signage.

The signage required by Section 8-5009 must:

(1) State that smoking, the use of tobacco products and the use of e-cigarettes are prohibited. Signs may include the Universal No Smoking and Use of Tobacco Products Prohibited symbol.

(2) Be of sufficient size to be clearly legible to a person of normal vision and be conspicuously posted.

(3) Be posted at entrances to Town buildings and in other locations reasonably calculated to inform the public and employees of the prohibition.

(4) Be posted within Town parks and sports facilities in locations and at intervals reasonably calculated to inform the public and employees of the prohibition.

(Ord. of 6/27/11; Res. 9/8/15)

Section 8-5011 Enforcement and penalties.

(a) Violation of this chapter shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00).

(b) A citation may be issued by a sworn law enforcement officer. A citation issued under this section has no consequence other than as set forth in paragraph (a) above and no court costs may be assessed.

(c) In addition to any penalty under this section, employees of the Town who violate this chapter shall be subject to disciplinary action consistent with the Town's personnel policies.

(Res. of 9/8/15)

Section 8-5012 Severability; conflict of laws.

If this chapter or any part thereof or the application thereof to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect other provisions or applications of this chapter that can be given separate effect and to that end the provisions of this chapter are declared to be severable. Whenever a provision of this chapter conflicts with other ordinances of the Town, this chapter shall govern.

(Res. of 9/8/15)

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CHAPTER 6
Other General Nuisances

- Section 8-6001 Unnecessary noises prohibited; enforcement and penalties.
- Section 8-6002 Same; noises expressly prohibited.
- Section 8-6003 Firearms regulated.
- Section 8-6004 Posting bills; other advertising.
- Section 8-6005 Fire bombs prohibited.
- Section 8-6006 Leaving ice boxes, refrigerators, etc., unattended.
- Section 8-6007 Obscenity - displaying obscene pictures, etc.
- Section 8-6008 Offensive language - cursing and swearing.
- Section 8-6009 Police and fire whistles, etc. - unauthorized use.
- Section 8-6010 Playing ball, etc., in street.
- Section 8-6011 Property damage - injuring, defacing, etc., signs, poles, buildings.
- Section 8-6012 Same; injuring or interfering with property used in water, sewer, police or fire alarm systems.
- Section 8-6013 Prostitution - renting house to be used as house of ill fame.
- Section 8-6014 Same; keeping house of assignation; receiving persons for purpose of prostitution.
- Section 8-6015 Same; admitting officers or policemen to houses of ill fame.
- Section 8-6016 Same; gatherings of disorderly character.
- Section 8-6017 Same; conveying prostitutes in taxicabs.
- Section 8-6018 Same; solicitation by prostitutes.
- Section 8-6019 Train whistles - when sounding prohibited.
- Section 8-6020 Trains blocking crossings.
- Section 8-6021 Storage and removal of junk.
- Section 8-6022 Fares and admission fees - failure to pay.
- Section 8-6023 Gambling.
- Section 8-6024 Indecent exposure.
- Section 8-6025 Unlawful to deposit debris on property.
- Section 8-6026 Reserved.
- Section 8-6027 Permitting the posting of signs prohibiting the carrying of concealed weapons on certain municipal property.
- Section 8-6028 Discharging firearms.
- Section 8-6029 Weapons - dangerous missiles.

Section 8-6001 Unnecessary noises prohibited; enforcement and penalties.

(a) It shall be unlawful for any person, firm or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing and unnecessary noise in the town. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

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(b) When there is a violation of this section or a violation of section 8-6002, the town, in its discretion, may take one or more of the following enforcement actions:

(1) The violator may be assessed a civil penalty. The civil penalty for the first violation shall be \$50. For subsequent violations by the same person for the same activity occurring within one year of the first violation, the violator shall be subject to civil penalties as follows:

- a. Second violation: \$ 50;
- b. Third violation: \$ 75;
- c. Fourth violation: \$ 75;
- d. Fifth violation: \$100;
- e. Sixth violation: \$100; and
- f. Seventh and subsequent violations: \$200.

(2) If the violator fails to pay any civil penalty within 30 days after it is assessed, a late fee of \$50 shall apply. The town may recover the civil penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

(3) ~~The violator may be charged with a misdemeanor pursuant to G.S. 14-4. A violation of this section shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

(4) A civil action seeking an injunction and order of abatement may be directed toward any person creating or allowing the creation of the unlawful noise, including the owner or person having legal or actual control of the premises from which the noise emanates.

(5) Penalties for violations of these sections may be assessed against all persons responsible for the premises or the device producing or causing the noise disturbance. An owner of any premises who is not also an occupant of the premises shall be responsible for any actions by his or her tenants, guests, or other licensees that constitute second or subsequent violations of section 8-6001 or section 8-6002; provided, that no absentee owner shall be liable unless notified of first or previous violations of one of these sections, and further provided that such first or previous violation shall have occurred within the 12 months prior to the date of notification. Notice of any first or previous violations shall be given by registered or certified mail. No absentee owner may be subject to criminal liability, but the owner shall be subject to civil penalties and equitable relief as provided for herein. The person responsible for any premises shall be responsible and liable for any violations of section 8-6001 or section 8-6002 by tenants, guests, or licensees on the premises if the person responsible is actively or constructively present at the time of the violation. (Code 1970, Sec. 12-14) (Res. of 3/20)

Section 8-6002 Same; noises expressly prohibited.

The following acts, among others, are declared to be loud, disrupting and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching

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apparently out of control, or if in motion only as a danger signal after, or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(2) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;

(3) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance; provided, however, that upon application to the manager or other appropriate official, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(4) The keeping of any animal or bird which by causing frequent loud continued noise shall disturb the comfort and repose of any person in the vicinity;

(5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in any such manner as to create loud or unnecessary grating, grinding, rattling, or other noise;

(6) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

(7) The discharge into the open air of the exhausts of any steam engine, motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;

(9) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of seven o'clock (7:00) a.m. and six o'clock (6:00) p.m. on weekdays except in the case of urgent necessity in the interest of public safety and then only with a permit from the building inspector, which permit may be renewed for a period of three (3) days or less while the emergency continues;

(10) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same is in session or interferes with the working of such institution, provided conspicuous signs are displayed on such streets indicating that the same is a school, court or hospital street;

(11) The creation of any excessive noise on Sundays on any street adjacent to any church, provided, conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street;

(12) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates and containers;

(13) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;

(14) The shouting and crying of peddlers, barkers, hawkers, vendors and other persons which disturbs the quiet or repose of persons in the vicinity thereof;

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(15) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise;

(16) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the board.

(17) The conducting, operating or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of eleven o'clock (11:00) p.m. and seven o'clock (7:00) a.m.;

(18) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance except by permit from the town.

Section 8-6003 Firearms regulated.

It is hereby declared unlawful for any person to carry about his person any deadly weapon, under any of the following circumstances or conditions:

- (1) While under the influence of intoxicating drink or narcotic drugs;
- (2) At any public assembly;
- (3) In any manner calculated to inspire terror; or
- (4) While taking part in a parade or march the purpose of which is to inspire terror.

This section shall not apply to members of the armed forces of the United States, officers of the government of the United States, this state, or any subdivision thereof charged with the execution of the laws of the United States, this state or the town, when acting in the discharge of their official duties.

Cross Reference: Discharging of weapons. Sections 8.6021, 8.6022.

Section 8-6004 Posting bills; other advertising.

(a) It shall be unlawful for any person, firm, or corporation to post, nail, stick, or otherwise affix bills, posters, advertisements, notices or any other printed or graphic matter upon public property in the town. This section shall not apply to notices signs, or advertisements required to be posted by law, signs or plates on residential premises giving the name or address of the occupant, mail boxes or newspaper tubes, municipal, county, state and federal traffic signs, historical markers, monuments or signs erected by public authority, temporary displays as a part of customary holiday decorations, and signs denoting the location of underground utilities.

(b) It shall be unlawful for any person, firm, or corporation to nail, stick, or otherwise affix bills, posters, advertisements, notices or other printed or graphic matter upon private property within the town without the consent of the owner.

(c) Notwithstanding the above provisions, it shall be lawful to post or affix printed or graphic materials upon public property in the town for up to 60 days preceding a national, state, or local election or referendum to be held in the town, when such materials relate to the candidate or candidates seeking election or the political issues being voted upon; ~~Provided~~ provided, however, the chief of police may require the giving of a bond by those

posting such election-related materials, the amount of such bond to be commensurate with the cost of removing the election materials so posted. If the election-related materials are not removed within 30 days following the scheduled election, the bond shall be retained by the town to defray the costs of removing such election-related posters and materials.

(d) Notwithstanding the above provisions, it shall be lawful to affix temporary banners or signs advertising the place and date of fairs, carnivals, horse shows and similar events to be observed within the town for a period not to exceed 30 days, and after the giving of a bond which the chief of police may require, the amount of such bond to be commensurate with the cost of removing such banners or signs. If the signs or banners are not removed within the 30 day period, the bond may be retained by the town to defray the costs of removing the banners or signs.

Section 8-6005 Fire bombs prohibited.

(a) For the purpose of this section, the following terms shall have the meanings herein ascribed:

(1) Molotov Cocktail is defined as any breakable container, or any container which is designed in such a manner that upon being propelled it will at impact empty its contents which is filled with an inflammable fluid or substance, and which is fitted with a fuse or wick.

(2) Firebomb is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact.

(b) It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov Cocktail or other firebomb.

(c) It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov Cocktails or other firebombs, other than on his or their premises. The provisions of this section shall be cumulative and in addition to any other ordinance or General Statute of North Carolina on this subject.

Section 8-6006 Leaving ice boxes, refrigerators, etc., unattended.

It shall be unlawful for any person, firm or corporation to leave ice boxes, refrigerators, deep freeze units and boxes of similar nature, which have thereon a latch door, in the open and unattended, without first removing the door, latch or back of such unit. (Ord. of 19/5/53, Sec. 1)

Section 8-6007 Obscenity - displaying obscene pictures, etc.

It shall be unlawful for any person to display on any street or in any store, shop or public place any obscene pictures, marks, words or representations of any kind. (Code 1970, Sec. 8-6013 12-16)

Section 8-6008 Offensive language - cursing and swearing.

It shall be unlawful for any person, in any public or private place, to swear or curse loudly enough to be heard by persons on any street or other public place. (Code 1970, Sec. 12-17)

Section 8-6009 Police and fire whistles, etc. - unauthorized use.

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No person, without special authority from the police department or fire department, shall carry or use any whistle, bell, ~~horn~~ horn or siren similar in ~~appearartee~~ appearance or sound to the whistles, horns or sirens used by the police department or fire department. (Code 1970, Sec. 12-18)

Section 8-6010 Playing ball, etc., in street.

No person shall play baseball, town ball, football or other games of a similar nature on any public street. (Code 1970, Sec. 12-19)

Cross Reference: Authority to establish play streets. Section 7-1039.

Section 8-6011 Property damage - ~~mjunnginjuring~~, defacing, etc., signs, poles, buildings.

No person shall willfully or negligently injure, deface, draw, paint, carve or mutilate in any way whatsoever any sign, post, lamppost, pole, wire, apparatus, building, residence, wall or fence. (Code 1970, Sec. 12-20)

Section 8-6012 Same; injuring or interfering with property used in water, sewer, police or fire alarm systems.

No person shall willfully or negligently injure or interfere with any valve, valve box, meter, meter box, storm or sanitary sewer manhole cover, storm sewer catch basin cover, fire hydrant, police or fire alarm box, traffic signal or any other property used in the town's water, sewer, police or fire alarm system. (Code 1970, Sec. 12-21)

Section 8-6013 Prostitution, - renting house to be used as house of ill fame.

It shall be unlawful for any person, as a lessor, to knowingly rent or lease, in any manner whatsoever, any house to be used as a house of ill fame or disorderly house. (Code 1970, Sec. 12-22)

Section 8-6014 Same; keeping house of as~~signation~~; receiving persons for purpose of prostitution.

It shall be unlawful for any person to keep a house of assignation or knowingly to receive a man or woman for the purpose of prostitution. (Code 1970, Sec. 12-23)

Section 8-6015 Same; admitting officers or policemen to houses of ill fame.

It shall be the obligation of the occupant or owner of any house of ill fame or disorderly house to open the doors thereof and give entrance to any officer or policeman, who shall demand admission and at the same time state his official character, for the purpose of suppressing disorderly conduct therein or making arrests.

Section 8-6016 Same; gatherings of disorderly character.

It shall be unlawful for any person to permit a gathering or party of disorderly character to assemble in his house, to the disturbance of the neighborhood. (Code 1970, Sec. 12-25)

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Section 8-6017 Same; conveying prostitutes in taxicabs.

It shall be unlawful for any person driving a taxicab to carry or convey any prostitute on any street or alley for an immoral purpose. (Code 1970, Sec. 12-26)

Section 8-6018 Same; solicitation by prostitutes.

It shall be unlawful for any prostitute to solicit for the purpose of illicit sexual intercourse. (Code 1970, Sec. 12-27)

Section 8-6019 Train whistles- when sounding prohibited.

It shall be unlawful for any employee of any railroad company to blow the whistle on any engine within the town, except to give signals necessary to the running of such trains. (Code 1970, Sec. 12-30)

Section 8-6020 Trains blocking crossings.

No railroad company shall obstruct any crossing within the town by allowing its cars or engines to remain on such crossing for more than five (5) minutes. (Code 1970, Sec. 17-5)

Section 8-6021 Storage and removal of junk.

(a) No junk or any vehicle, including automobiles and trucks, shall be burned in or on any premises occupied as a junkyard.

(b) The maintenance of wrecked or unusable automobiles and other junk items as described herein shall be allowed by auto wrecking yards, salvage yards or junkyards; provided that such business is a properly licensed business, and provided also that all open storage of such items must be completely screened from public view by topography, by pregrown planted screens, or by a fence maintained in good repair, which shall not be used as a signboard or signboards or used for advertising purposes.

(Ord. of 10-9-78; Res. of 5/ 6/19)

Section 8-6022 Fares and admission fees_-failure to pay.

No person, except persons entitled to free transportation, shall ride upon any bus, taxicab or other public conveyance without paying therefor the fare prescribed or allowed by law, or attend any show or other amusement without paying the prescribed fee. (Code 1970, Sec. 12-8)

Section 8-6023 Gambling.

~~If any person play at any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, both those who play and those who bet thereon shall be guilty of a misdemeanor. (Code 1970, Sec. 12-9) If any person play at any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, both those who play and those who bet thereon shall be guilty of a Class 3 misdemeanor as provided by G.S. 14-4(a) and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

Section 8-6024 Indecent exposure.

~~Any person who in any place willfully exposes his person, or private parts thereof, in the presence of one or more persons of the opposite sex whose person, or the private parts thereof, are similarly exposed, or who aids or abets in any such act, or who procures another so as to expose his person, or the private parts thereof, shall be guilty of a misdemeanor. Any person who shall willfully make any indecent public exposure of the private parts of his person in any public place, street or highway shall be guilty of a misdemeanor. (Code 1970, Sec. 12-10) Any person who in any place willfully exposes his person, or private parts thereof, in the presence of one or more persons of the opposite sex whose person, or the private parts thereof, are similarly exposed, or who aids or abets in any such act, or who procures another so as to expose his person, or the private parts thereof, shall be guilty of a misdemeanor as provided by G.S. 14-4(a). Any person who shall willfully make any indecent public exposure of the private parts of his person in any public place, street or highway shall be guilty of a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

Section 8-6025 Unlawful to deposit debris on property.

(a) It shall be unlawful for any person to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of such private property, any rocks, bricks, lumber, sawdust, bottles, jars, broken glass or any paper bags, cups m paper of any kind, or any trash, leaves, dirt or rubbish of any kind that may be offensive or unsightly or that may be dangerous to traffic.

(b) It shall be unlawful for any person to fill any land or dump upon any vacant lot within the town, garbage, dead animals, decaying vegetable or animal matter or any offensive material, nor shall any such material be buried within the town, but shall be disposed of as directed by the town manager. (Ord. of 9/7/65, Sec. 1)

Section 8-6026 Reserved.

Editorial Note: This section was rescinded by Resolution of 8/2/10. For current provisions regulating the consumption and possession of malt beverages and unfortified wine, see Section 8-10001 et seq.

Section 8-6027 Permitting the posting of signs prohibiting the carrying of concealed weapons on certain municipal property.

(a) Posting of signs required. The Town Manager of the Town of Valdese is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the Town of Valdese, as well as the appurtenant premises to such buildings, indicating that carrying a concealed handgun is prohibited therein.

(b) Location of signs. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Town Manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

(c) Severability; conflict of laws. If this section or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this chapter are declared to be severable. All ordinances or parts of ordinances in conflict with this chapter are hereby repealed. (Ord. of 1/2/96)

Section 8-6028 Discharging firearms.

(a) It shall be unlawful for any person to fire any pistol, rifle, gun or other firearm within the corporate limits of the town.

(b) This section shall not apply to police officers or other law enforcement officers while discharging their official duties.

(Res. of 2/2/09)

Section 8-6029 Weapons - dangerous missiles.

No person shall shoot or project any stone, rock, shot or other hard substance by means of a slingshot, bean shooter, shot shooter, air rifle, popgun, bow or other similar contrivance; however, deer hunting by bow and arrow shall be allowed on a person's property or on the property of another upon the following conditions:

(1) There is a bow and arrow deer hunting season in effect in the town at the time the person is hunting;

(2) The person hunting must possess a valid hunting license;

(3) While hunting on the land of another, the hunter must have in his or her possession current written permission from the property owner for the hunter to hunt deer by bow and arrow on the owner's property;

(4) The person hunting shall exercise reasonable care for the safety and property of the others;

(5) The person hunting shall hunt in compliance with all applicable laws, town ordinances and regulations issued by the North Carolina Wildlife Resources Commission;

(6) The person hunting shall not shoot an arrow within 300 feet of a dwelling house, school, church or any other occupied building, a street or road, park or recreation area, or any other type of public gathering place; and

(7) The person hunting shall not shoot an arrow within 300 feet of a property line of the property on which the person is hunting. (Res. of 2/3/20)

CHAPTER 7
Fair Housing Code

Section 8-7001 Declaration of policy.

Section 8-7002 Application of chapter.

Section 8-7003 Prohibited practices enumerated; exceptions.

Section 8-7004 Alleged grievances.

Section 8-7005 Interpretation and conflict.

Section 8-7006 Penalty.

Section 8-7001 Declaration of policy.

The policy of the town is to assure equal housing accommodations for sale or for rent. (Ord. of 8/4/80)

Section 8-7002 Application of chapter.

The provisions of this chapter relative to discrimination in housing shall apply to the sale or rental of a house to a person or persons in a single dwelling unit and to the rental or lease of a portion of a dwelling housing containing accommodations for a family, except when the remainder of the dwelling is occupied by the owner or member of his immediate family. (Ord. of 8/4/ 80)

Section 8-7003 Prohibited practices enumerated; exceptions.

(a) No owner of real property shall discriminate against any other person because of the religion, race, color or national origin, or ancestry of the friends or associates of such other person in regard to the sale or rental of, or dealings concerning, real property located within the town. Any such discrimination shall be considered an unlawful housing practice.

(b) Nothing in this section shall require an owner to offer property to the public at large before selling or renting it nor shall this section be deemed to prohibit owners from giving preference to prospective tenants or buyers for any reason other than religion, race, color or national origin.

(c) Nothing in this section shall be construed to bar any religious or ~~demoninational~~denominational institu—tion or organization or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization of the same religion or denomination, or from making such selection as is calculated by the organization to promote the religious principles for which it has been established or maintained. (Ord. of 8/4/ 80)

Section 8-7004 Alleged grievances.

(a) Any person who contends that the pro- visions of this chapter have been violated may file a written complaint under oath with the town zoning administrator. Within a reasonable time after the complaint has been filed, the zoning administrator shall make a determination of the merits and reasonableness of the complaint, and shall attempt to adjust the grievance between the parties. The administrator will report all findings to the town council.

(b) The town council will, upon enactment of this chapter, serve as the fair housing board. The town council shall adopt rules governing fair housing proceedings, and shall set aside time during regularly-scheduled council meetings for the hearing and ruling of fair housing complaints.

(c) If the complaint or grievance is not resolved by the parties through the administrator, either party to the alleged complaint or the administrator, may appeal to the fair housing board. The appeal shall be taken within a reasonable time as provided by the rules of the board. Upon an appeal being properly filed, the zoning administrator shall forthwith transmit to the board all paper constituting the record of the matter. (Ord. of 8/4/80)

Section 8-7005 Interpretation and conflict.

(a) In interpreting and applying the provisions of this chapter, the purpose and spirit for which it is offered shall be of primary concern.

(b) It is not intended by this chapter to interfere with, abrogate, annul or circumvent the 1968 Civil Rights Act or other laws with regard to fair housing practices. The filing of a complaint under this section will not preclude the claim from being pursued in any other court or jurisdiction. It is intended to offer a reasonable person, acting in good faith, an opportunity to resolve their differences in an atmosphere of a non-adversary proceeding. (Ord. of 8/4/80)

Section 8-7006 Penalty.

For individuals or agencies deemed to be in violation of this chapter, a fine of up to \$30 per week will be assessed against the party or parties, intending \$30 for each week the violation continues. These funds will be payable to the general fund of the town until the issue is resolved to the satisfaction of the fair housing board. (Ord. of 8/4/80)

CHAPTER 8 Tree Regulations

- Section 8-8001 Definitions.
- Section 8-8002 Creation and establishment of Town Tree Board.
- Section 8-8003 Compensation to members of Board.
- Section 8-8004 Duties and responsibilities of Board.
- Section 8-8005 Operation of Board
- Section 8-8006 Street tree species to be planted.
- Section 8-8007 Spacing.
- Section 8-8008 Distance from curb and sidewalk.
- Section 8-8009 Distance from street corners and fireplugs.
- Section 8-8010 Distance from utilities.
- Section 8-8011 Public tree care.
- Section 8-8012 Tree topping.
- Section 8-8013 Pruning, corner clearance.
- Section 8-8014 Dead or diseased tree removal on private property.
- Section 8-8015 Removal of stumps.
- Section 8-8016 Interference with Town Tree Board.
- Section 8-8017 Arborist license and bond.
- Section 8-8018 Review by Town Council.
- Section 8-8019 Penalty.

Cross References: Planting and protection of trees, see section 8-5004. Arbor-beautification committee, see section 2-7040 through 2-7047.

Section 8-8001 Definitions.

(a) "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying within rights-of-way for all streets, avenues, or ways within the town.

(b) "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the town, or to which the public has free access as a park. (Ord. of 11/3/86, Sec. 1)

Section 8-8002 Creation and establishment of Town Tree Board.

There is hereby created and established a Town Tree Board, which shall consist of members of the Town Arbor-Beautification Committee, who shall be appointed by the Mayor with approval of the Town Council. (Ord. of 11/3/86, Sec. 2)

Section 8-8003 Compensation to members of Board.

Members of the Town Tree Board shall serve without compensation. (Ord. of 11/3/86, Sec. 3)

Section 8-8004 Duties and responsibilities of Board.

It shall be the responsibility of the Town Tree Board to study, investigate, counsel, and develop or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. This plan will be presented annually to the Town Council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the town. The Board, when requested by the Town Council, shall consider, investigate, make finding, report, and recommend upon any special matter of question coming within the scope of its work. (Ord. of 11/3/86, Sec. 4)

Section 8-8005 Operation of Board.

The Town Tree Board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. of 11/3/86, Sec. 5)

Section 8-8006 Street tree species to be planted.

The following list constitutes the official street tree species for the town. No species other than those included in this list may be planted as street trees without written permission of the Town Tree Board.

SMALL TREES

Apricot

Crabapple (flowering species)

Goldenrain

Hawthorn

Bradford pear

Redbud

Soapberry

Peach, flowering

Plum, purple leaf

Sarvisberry

Lilac, Japanese

Dogwood

Rhododendron

MEDIUM TREES

Ash, Green

Hackberry

Honey Locust, thornless

Linden or Basswood

Mulberry

Oak, English

Oak, Red

Oak, Pin

Pagoda

Birch, River

Osage, Orange (male thornless)

Persimmon

Poplar, White

Sassafras

Hemlock

Spruce, Blue

LARGE TREES

Coffee Tree (Kentucky)

Maple, Silver

Maple, Sugar

Oak, Bur

Sycamore

Cottonwood

Spruce, Norway

Spruce, White

(Ord. of 11/3/86, Sec. 6) Penalty, see Section 8-8019

Section 8-8007 Spacing.

The spacing of street trees will be in accordance with the three species size classes listed in Section 8-8006. No trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; large trees, 50 feet; except in special plantings designed or approved by a landscape architect. (Ord. of 11/3/86, Sec. 7) Penalty, see Section 8-8019

Section 8-8008 Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 8-8006. No trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; large trees, 4 feet; except in special plantings on Main Street which are approved by the Town Tree Board. (Ord. of 11/3/86, Sec. 8) Penalty, see Section 8-8019

Section 8-8009 Distance from street corners and fireplugs.

No street trees shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 10 feet to any fireplug. (Ord. of 11/3/86, Sec. 9) Penalty, see Section 8-8019

Section 8-8010 Distance from utilities.

No street trees other than those species listed as small trees in Section 8-8006 may be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility. (Ord. of 11/3/86, Sec. 10) Penalty, see Section 8-8019

Section 8-8011 Public tree care.

(a) The town shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the rights-of-way of all streets, alleys, avenues, and lanes, and within squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public grounds.

(b) The Town Tree Board may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or which is affected with any injurious fungus, insect, or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of trees is in accordance with Sections 8-8006 through 8-8011. (Ord. of 11/3/86, Sec. 11)

Section 8-8012 Tree topping.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Town Tree Board. (Ord. of 11/3/86, Sec. 12) Penalty, see Section 8-8019

Section 8-8013 Pruning, corner clearance.

Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that the branches shall not obstruct the light from any street lamp, or obstruct the view of any street intersection, and so that there shall be a clear space of not less than eight feet above the surface of the street or sidewalk. Owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign. (Ord. of 11/3/86, Sec. 13) Penalty, see Section 8-8019

Section 8-8014 Dead or diseased tree removal on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the town. The Town Tree Board will notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service of notice. In the

event of failure of owners to comply with such provisions, the town shall have the authority to remove those trees and charge the cost of removal on the owners' property tax notices. Nothing, however, in this section shall be construed to create an obligation by the town to inspect trees on private property. (Ord. of 11/3/86, Sec. 14)

Section 8-8015 Removal of stumps.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (Ord. of 11/3/86, Sec. 15)

Section 8-8016 Interference with Town Tree Board.

It shall be unlawful for any person to prevent, delay, or interfere with the Town Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter. (Ord. of 11/3/86, Sec. 16) Penalty, see Section 8-8019

Section 8-8017 Arborist license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the town without first applying for and procuring a license. However, no license shall be required of any public service company or town employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 property damage indemnifying the town or any person injured or damage resulting from the pursuit of those endeavors as herein described. (Ord. of 11/3/86, Sec. 17) Penalty, see Section 8-8019

Section 8-8018 Review by Town Council.

The Town Council shall have the right to review the conduct, acts, and decisions of the Town Tree Board. Any person may appeal, within 30 days, from any ruling or order of the Town Tree Board to the Town Council, who may hear the matter and make final decision. (Ord. of 11/3/86, Sec. 18)

Section 8-8019 Penalty.

Any person violating any provision of this chapter shall be, upon conviction or a plea of guilty, subject to a fine not to exceed \$50. (Ord. of 11/3/86, Sec. 19)

CHAPTER 9
Parks and Recreational Facilities

Section 8-9001 Definitions.

Section 8-9002 Trespass.

Section 8-9003 Behavior.

Section 8-9004 Merchandising, advertising and signs.

Section 8-9005 Sanitation.

Section 8-9006 Traffic.

Section 8-9007 Firearms, air rifles and toy arms.

Section 8-9008 Animals running at large; horseback riding.

Section 8-9009 Enforcement.

Section 8-9001 Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) Director. The director of parks and recreation for the town or authorized agents.
- (2) Town recreational facility. A park, playground, athletic facility or any recreational area of any type whatsoever which is owned, leased or otherwise in the possession of the town. (Ord. of 6/24/92)

Section 8-9002 Trespass.

(a) It shall be unlawful to enter or remain upon a town recreation facility during the hours that such facility is closed to the public.

(b) Any section or part of any town recreation facility may be declared closed to the public by the director at any time and for any interval of time, either temporarily or at regular or stated intervals (daily or otherwise) and either entirely or merely to certain uses, as the director shall find reasonably necessary. (Ord. of 6/24/92)

Section 8-9003 Behavior.

No person in a town recreational facility shall:

(a) Possess or consume any malt beverage, unfortified wine, fortified wine or spirituous liquor as defined in Chapter 18B of the North Carolina General Statutes.

(b) Possess, use or consume any illegal drugs; or be under the influence of any illegal drugs while at a town recreation facility.

(c) Build or attempt to build a fire except in such areas as may be designated for the building of fires; or throw or otherwise scatter lighted matches, burned cigarettes or cigars, tobacco paper or other flammable material within any town recreation area.

(d) Enter an area posted as "closed to the public," nor shall any person use or abet the use of any area in violation of posted notices.

(e) Lie or sleep in a prone position on seats, tables or benches.

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(f) Disturb or interfere with the activities of any other person or persons occupying an area of a town recreation facility with the intent to disrupt the activities of the other person or persons. (Ord. of 6/24/92)

Section 8-9004 Merchandising, advertising and signs.

No person in a town recreation facility shall:

(a) Expose, offer for sale or advertise any article or service except regularly licensed concessionaires acting by and under the authority and regulation of the director.

(b) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever; except as authorized by the director. (Ord. of 6/24/92)

Section 8-9005 Sanitation.

No person in a town recreation facility shall:

(a) Throw, discharge, or otherwise place or cause to be placed in the waters of any swimming pool, wading pool, stream or other body of water in or adjacent to any town recreation facility any substance, matter, or thing, liquid or solid, which will or may result in the pollution of such waters.

(b) Dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or other trash anywhere on the grounds of the town recreation facility, except such matter that may be placed in proper receptacles where provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the facility by the person responsible for its presence, and properly disposed of elsewhere. (Ord. of 6/24/92)

Section 8-9006 Traffic.

No person in a town recreation facility shall:

(a) Fail to comply with all applicable provisions of motor vehicle traffic laws of the state and ordinances of the town applicable to equipment and operation of vehicles.

(b) Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and safeguarding of life and property.

(c) Drive any vehicle on any area except paved roads and parking areas of the recreation facility; or such other areas as may on occasion be specifically designated as temporary parking areas by the director.

(d) Leave a vehicle parked and unattended upon the grounds of a town recreation facility during the hours that the recreation facility is closed to the public.

(e) Operate a go-cart, minibike, four-wheeler or similar vehicle at any location within any town recreation facility except that regularly licensed vehicles and operators may have access to roadways within the town recreation facilities to the same extent as public streets, subject to the traffic rules of this chapter. (Ord. of 6/24/92)

Section 8-9007 Firearms, air rifles and toy arms.

It shall be unlawful for any person, except law enforcement officers when acting in the discharge of their official duties, to possess or discharge, shoot, fire, or explode or cause to

be discharged, fired or exploded any deadly weapon, air rifle or toy pistol, toy rifle or other toy arms so designed and capable of forcibly hurling a projectile or missile within any town recreation facility. (Ord. of 6/24/92)

Section 8-9008 Animals running at large; horseback riding.

It shall be unlawful for the owner or the person in possession to permit any dogs or other animals to run at large within any town recreation facility or to ride horses within the same except upon designated and marked bridle paths. (Ord. of 6/24/92)

Section 8-9009 Enforcement.

When there is a violation of any provision of this chapter, the town, in its discretion, may take one or more of the following courses of action:

(1) A civil penalty of \$25 may be levied against any person who violates this chapter and who has been issued a citation. The citation shall direct the violator to pay the penalty within 15 days from the date of the issuance of the citation. If the violator does not pay the penalty within 15 days of its issuance, a delinquency charge of \$25 will be added. The penalty and delinquency charge may be recovered by the town in a civil action.

(2) The violator may be charged as provided by G.S. 14-4.

(3) The town may apply to the appropriate court for an injunction or other allowable civil penalty. (Ord. of 6/24/92)

CHAPTER 10
Malt Beverages and Unfortified Wine

Section 8-10001 Definitions.

Section 8-10002 Consumption on the public streets and on municipal property prohibited.

Section 8-10003 Possession of open containers on the public streets and on municipal property prohibited.

Section 8-10004 Possession during special events prohibited.

Section 8-10005 Penalty.

Section 8-10006 Severability; conflict of laws.

Section 8-10007 Effective date.

Section 8-10001 Definitions.

In addition to the common meanings of words, the following definitions shall be applicable herein:

(a) Malt beverage shall mean beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage except unfortified or fortified wine as defined in G.S. 18B-101, containing at least one-half of one percent (0.5%), and not more than fifteen percent (15%), alcohol by volume. (G.S. 18B-101(9))

(b) Open container shall mean a container whose seal has been broken or a container other than the manufacturer's unopened original container. (G.S. 18B-300(c))

(c) Public street shall mean any highway, road, street, avenue, boulevard, alley, bridge, or other way within and/or under the control of the town and open to public use, including the sidewalks of any such street.

(d) Unfortified wine shall mean any wine of sixteen percent (16%) or less alcohol by volume made by fermentation from grapes, fruits, berries, rice or honey; or by the addition of pure cane, beet or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

(Ord. of 6/7/10)

Section 8-10002 Consumption on the public streets and on municipal property prohibited.

It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts, and other athletic fields.

(Ord. of 6/7/10)

Section 8-10003 Possession of open containers on the public streets and on municipal property prohibited.

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It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied, or controlled by the town including, but not limited to, public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational area, tennis courts, and other athletic fields.

(Ord. of 6/7/10)

Section 8-10004 Possession during special events prohibited.

It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys, or parking lots which are temporarily closed to regular traffic for special events, unless the town council adopts a resolution making other provisions for the possession of malt beverages and/or unfortified wine at the special event.

(Ord. of 6/7/10)

Section 8-10005 Penalty.

~~Violation of this ordinance shall constitute a misdemeanor punishable in accordance with N.C.G.S. 14-4. Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

~~(Ord. of 6/7/10)~~

Section 8-10006 Severability; conflict of laws.

If this chapter or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given separate effect and to that end the provisions of this chapter are declared to be severable. All ordinances or parts of ordinances in conflict with this chapter are hereby repealed.

(Ord. of 6/7/10)

Section 8-10007 Effective date.

This ordinance shall be effective upon adoption.

(Ord. of 6/7/10)

CHAPTER 11 Special Events

Section 8-11001 Purpose.

Section 8-11002 Definitions.

Section 8-11003 Permit.

Section 8-11004 Requirements and conditions.

Section 8-11005 Revocation or denial of permit.

Section 8-11001 Purpose.

The purpose of this chapter is to enable the town to better control events that take place on public property and certain events that take place within the Downtown District, which will help secure the public safety, health, and general welfare of town citizens.

(Ord. of 5/6/19)

Section 8-11002 Definitions.

The following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) Applicant is the person applying for a special event permit.

(b) Downtown District is the area running West to East from Eldred Street to Morganton Street, and North to South from Bobo Avenue to Massel Avenue.

(c) Event insurance is a comprehensive general liability insurance policy with limits of at least \$1,000,000. The event insurance policy shall be issued by a company licensed to do business in the State of North Carolina and shall name the Town of Valdese as an additional insured. The event insurance policy shall cover all activities carried out at the special event.

(d) Private property is property owned by a non- governmental agency.

(e) Public property is property owned or controlled by the town or another governmental unit, including public streets, sidewalks, parking lots, parking spaces, parks, and land surrounding town or other government facilities.

(f) Recurring event is an event held on private property in the Downtown District that occurs more than once in a calendar year. A recurring event takes place in the same area, has substantially the same number of attendees, does not require alcohol permitting, and does not involve public property. Special event permits for a recurring event must be obtained annually prior to the first event.

(g) Special event is a planned, outdoor event that is open to the public, that involves the gathering of persons for a common purpose, design or goal, and that (1) takes place on public property or causes or requires a complete or partial closure of public property; (2) takes place within the Downtown District and the event is reasonably expected to restrict or interfere with the right of merchants or private individuals to have access to parking areas, offices, stores, residences, or other places because of the anticipated attendance, noise level, or other factors related to the event; or (3) involves the use of mechanical rides, inflatables such as bounce houses, temporary stages, or other structures or devices that have the potential to cause injury if not properly constructed or erected or not properly maintained.

(Ord. of 5/6/19)

Section 8-11003 Permit.

(a) Permit required. It shall be unlawful for any person to conduct or assist in conducting a special event without first obtaining the permit required by this article and maintaining that permit at all times during the special event.

(b) Exceptions. A permit shall not be required for the following events:

- (1) Funerals.
- (2) Merchant sidewalk sales.
- (3) The carrying out of government functions.
- (4) Events sponsored or substantially controlled by the town.
- (5) Events authorized by the Valdese Recreation Department or Community Affairs Department.

(c) Application. An application for a special event permit shall be completed in writing on an application form provided by the town. All required information shall be truthfully and accurately provided. The application shall be submitted to the Town of Valdese Community Affairs Department, together with the permit fee.

The application will not be considered without all required supporting documents including, but not limited to, an emergency action plan, a map of the event area, proof of event insurance if required, letters of permission for private property use, and a properly executed release and indemnity agreement.

(d) Determination and issuance. In issuing any permit applied for under this article, the town official designated for such purpose may request the review of the application by other departments of the town and the official shall conduct such additional investigation as may be necessary to determine whether the permit should be issued. To allow sufficient time for review, applications for a permit must be submitted at least 60 days prior to the special event.

(1) Form of permit. Upon approval, a written permit will be given to the applicant, which will be signed by the appropriate town employee or official.

(2) Term. Permits shall be issued for a single event only unless the special event qualifies as a recurring event.

(3) Transferability. The permit shall not be transferable or assignable.

(4) Personal liability. The application shall be submitted by and the permit issued only in the name of the applicant. The applicant shall personally be responsible for the information set out in the application and for compliance with this article and with the terms and conditions of the permit.

If the applicant represents an organization, the application shall name the organization; however, the applicant shall remain personally responsible for the accuracy of the information provided in the application and for compliance with this article and with the permit.

(5) Frequency. To lessen the impact caused by closing public property, no permit shall be issued that allows a public property to be closed longer than a total of 8 hours or for more than 1 day in a calendar month.

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(6) Notification. The town will reply with approval or denial of the special event within 30 days. If the special event requires a permit for alcohol or street closure, the approval of the application will be contingent upon final approval by the Valdese Town Council and all other agencies involved.

(Ord. of 5/6/19)

Section 8-11004 Requirements and conditions.

All special events shall be conducted in full compliance with the following requirements and conditions.

(a) Permits. All permits required for the special event shall be obtained and submitted to the Town of Valdese including, but not limited to, an Alcohol Beverage Control Commission permit.

(b) Public safety. The applicant shall contract with and coordinate with the town public safety department for traffic control, crowd control, security, and emergency services.

(c) Access. A reasonable means of access shall be provided for businesses and residences located near the special event and for town fire and other protective services.

(d) Compliance. The applicant shall not permit the event to become a nuisance, and the applicant shall cause the special event participants to comply with all applicable town ordinances, including the noise ordinance. The applicant shall also cause the special event to be held in compliance with all other laws including fire safety codes and ADA access rules. All mechanical amusement rides and inflatable devices must be inspected by the NC Department of Labor, and the inspection results must be submitted to the Valdese Fire Marshal prior to operation of the rides or devices.

(e) Indemnity. In consideration of the town granting a special event permit, the applicant shall indemnify and hold harmless the town, its officers, agents, and employees against all loss, expense or liability of any kind, including attorney fees, caused by or in any way resulting from the acts of any person attending the special event or in any way resulting from the activities carried on during the special event or from the use of the public property.

(f) Event insurance. Event insurance shall be required for a special event that involves the use of public property, including a street or sidewalk closure; the consumption or sale of alcohol; the use of mechanical or other amusement rides or devices; 5K, 10K, or other runs or walks; or any other potentially hazardous event as determined by the Valdese Fire Department.

(g) Alcohol. The sale, distribution, possession, and consumption of beer, wine, and other alcohol beverages shall be in full compliance with all state and local laws governing such matters. The consumption of alcohol on public property must be approved by Valdese Town Council, and the applicant shall be required to have the applicable permit from the NC ABC Board.

(h) Strict liability. The applicant shall assume strict liability for all damage caused to public property as a result of the special event.

(Ord. of 5/6/19)

Section 8-11005 Revocation or denial of permit.

The application for any permit may be denied and any permit issued may be revoked if:

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(1) The application contains false or misleading information or does not set forth all of the information requested;

(2) The special event is conducted in such manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare;

(3) The applicant fails to obtain and maintain all permits and licenses required for the special event;

(4) The applicant violates or is attempting to violate any of the terms and conditions of this article; or

(5) The requested special event conflicts with a previously scheduled special event or with an event or activity sponsored by the town.

(Ord. of 5/6/19)

PART 9
Planning and Regulation of Development

Chapter 1. Building and Housing Regulations

Chapter 2. Subdivision Regulations

Chapter 3. Zoning

CHAPTER 1

Building and Housing Regulations

ARTICLE A

Codes Adopted

Section 9-1001 North Carolina State Building Code adopted; where copy filed.

Section 9-1002 North Carolina Uniform Residential Building code adopted; where copies filed.

Section 9-1003 Plumbing code adopted.

Section 9-1004 National Electrical Code adopted.

Section 9-1005 Heating, ventilating, air-conditioning code adopted.

Section 9-1006 through section 9-1020 reserved.

ARTICLE B

Administrative Provisions

Section 9-1021 Organization of department.

Section 9-1022 Duties generally.

Section 9-1023 Additional enforcement duties-Dwellings unfit for human habitation.

Section 9-1024 Same - Zoning.

Section 9-1025 Powers of inspectors.

Section 9-1026 Conflicts of interest.

Section 9-1027 Reports and records.

Section 9-1028 Inspection of work in progress - required generally.

Section 9-1029 Calls for inspection.

Section 9-1030 Same; survey of street lines.

Section 9-1031 Certificate of occupancy.

Section 9-1032 Oversight not to legalize violation.

Section 9-1033 through section 9-1040 reserved.

ARTICLE C

General Provisions

Section 9-1041 Scope of article.

Section 9-1042 Registration of contractors; required.

Section 9-1043 Same; bond.

Section 9-1044 Permits; required.

Section 9-1045 Same; contents of application.

Section 9-1046 Same; plans and specifications.

Section 9-1047 Same; limitations.

Section 9-1048 Same; issuance.

Section 9-1049 Same; revocation.

Section 9-1050 Time limitations on validity of permit.

Section 9-1051 Changes in work after permit issued.

Section 9-1052 Schedule of permit fees.

Section 9-1053 through section 9-1060 reserved.

ARTICLE D

Minimum Housing Standards

Division 1.

Section 9-1061 Definitions.

Section 9-1062 Findings; purpose.

Section 9-1063 Conflicts.

Section 9-1064 Scope.

Section 9-1065 Alternative remedies.

Section 9-1066 Right of access.

Section 9-1067 Methods of service of complaints and orders.

Section 9-1068 Compliance.

Section 9-1069 Space use.

Section 9-1070 Light and ventilation.

Section 9-1071 Exits.

Section 9-1072 Plumbing.

Section 9-1073 Heating.

Section 9-1074 Electricity.

Section 9-1075 Structural requirements.

Section 9-1076 Property maintenance.

Section 9-1077 Rooming/boarding houses.

Section 9-1078 Inspections; duty of owner and occupants.

Section 9-1079 Refusal to permit entry for inspection.

Division 2. Administration and Enforcement

Section 9-1080 Method of serving complaints, orders.

Section 9-1081 Dwellings in violation; preventive action or proceeding.

Section 9-1082 Petition for temporary injunction.

Section 9-1083 Enforcement by code official/code enforcement officer; assistance from town agencies, departments.

Section 9-1084 Powers of code official/code enforcement officer.

Section 9-1085 Issue of complaint; hearing; determination of unfit dwelling; abatement procedure.

Section 9-1086 Appeals from orders of code official/code enforcement officer.

Section 9-1087 Petition to superior court.

Section 9-1088 Unauthorized removal of posted complaint, notice or order.

Section 9-1089 Renting unfit dwelling after notice.

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Section 9-1090 Certificate of occupancy.

Section 9-1091 Changes in work after permit issued.

Section 9-1092 Violations; penalty.

ARTICLE E

Minimum Standards for Non-Residential Buildings

Section 9-1093 Exercise of police powers; authority.

Section 9-1094 Definition of abandoned and/or unsafe structure.

Section 9-1095 Procedure for enforcement.

Section 9-1096 Appeal; finality of order if not appealed.

Section 9-1097 Securing, closing and demolition by the town.

Section 9-1098 Actions by Town Council.

Section 9-1099 Failure to comply with order.

Section 9-1100 Lien on property.

Section 9-1101 Other unlawful actions.

Section 9-1102 Alternative remedies.

Section 9-1103 Conflicts with other provisions.

Section 9-1104 Unsafe buildings condemned.

Section 9-1105 Appeals in general.

Section 9-1106 Changes in work after permit issued.

Section 9-1107 Report of owner's failure to comply with code official's/code enforcement officer's order.

ARTICLE F

Abandoned Manufactured Homes

Section 9-1108 Intent.

Section 9-1109 Abandoned, nuisance and junked mobile homes unlawful.

Section 9-1110 Notice requirements for abandoned manufactured homes.

Section 9-1111 Removal of abandoned manufactured homes.

Section 9-1112 Protection against criminal or civil liability.

Section 9-1113 Appeals.

Sections 9-1114 through 9-1121. Reserved.

ARTICLE A
Codes Adopted

Section 9-1001 North Carolina State Building Code adopted; where copy filed.

The minimum standards, provisions and requirements for safe and stable design, methods of construction and usage of materials in buildings and structures hereafter erected, enlarged, altered, repaired, moved, converted to other uses or demolished, and the equipment, maintenance, use and occupancy of all buildings and structures in the town, to which the North Carolina State Building Code applies, shall be regulated in accordance with the terms of the North Carolina State Building Code, 1967 edition, which is hereby adopted and incorporated herein by reference as fully as though set forth at length herein; provided, that a copy of such North Carolina State Building Code shall be placed and remain on file in the office of the town clerk and in the office of the building inspector. (Code 1970, Sec. 5-1)

Section 9-1002 North Carolina Uniform Residential Building Code adopted; where copies filed.

Whereas the North Carolina State Building Code excludes one and two-family dwellings and certain other buildings from the provisions thereof, there is hereby adopted and incorporated herein by reference as fully as though set forth at length herein, all provisions of the North Carolina Uniform Residential Building Code, 1968 edition, regulating the construction of one-family and two-family dwellings within the town. A copy of the North Carolina Residential Building Code hereby adopted is on file in the office of the town clerk and in the office of the building inspector. (Code 1970. Sec. 5-2)

Section 9-1003 Plumbing code adopted.

There is hereby adopted by reference by the council for the purpose of prescribing rules and regulations governing plumbing work in the town, including plumbing work in one-family and two-family dwellings, the provisions of the North Carolina State Building Code, Article XX, Plumbing, 1963 edition, and the same are hereby incorporated herein and made a part of this chapter as fully as though set out at length herein. Not less than three (3) copies of the plumbing code are on file in the town clerk's office.

Section 9-1004 National Electrical Code adopted.

There is hereby adopted by reference by the board for the purpose of regulating all electrical construction and materials and appliances used in connection with electrical work and the operation of all electrical apparatus within the town, including that in one-family and two-family dwellings, that certain code known and designated as the National Electrical Code, 1965 edition, as recommended by the National Fire Protection Association. Three (3) copies of the National Electrical Code are on file in the town clerk's office. (Code 1970, Sec. 7-1)

Section 9-1005 Heating, ventilating, air-conditioning code adopted.

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There is hereby adopted by reference by the council for the purpose of regulating heating, ventilating and air conditioning, that certain code known as the North ~~Carolins~~Carolinas State Building Code, Volume III, Heating.

Section 9-1006 through section 9-1020 reserved.

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ARTICLE B Administrative Provisions

Section 9-1021 Organization of department.

The inspection department shall consist of a building inspector and such other personnel as required, who will be responsible for heating and air-conditioning, electrical inspection and such other inspections as may be necessary. The manager may in his discretion designate a person as the department head or to assist the building inspector.

Section 9-1022 Duties generally.

The building inspector shall enforce all of the provisions of this article and make all inspections necessary to determine whether or not the provisions of this article are being met.

Section 9-1023 Additional enforcement duties - Dwellings unfit for human habitation.

The building inspector shall enforce any ordinances or codes adopted by the governing body relating to the repair, closing and demolition of dwellings unfit for human habitation, pursuant to section 160A-441 et seq. of the General Statutes of North Carolina.

Section 9-1024 Same - Zoning.

(a) If the building inspector is charged with enforcing the zoning ordinance of this code, then no permit for alteration, repair or construction of any building shall be issued unless the plans and specifications show that the building and its proposed use will be in compliance with applicable provisions of the zoning ordinance.

(b) If the building inspector is not charged with enforcing the zoning ordinance, then no permit for alteration, repair or construction of any building shall be issued unless a zoning permit has first been issued by the appropriate official charged with enforcing the zoning ordinance.

State Law Reference: For state law as to building inspection generally, see G.S., 160A-441 et seq. Organization of inspection department. G.S. 160A-441. Duties of inspection department. G. S. 160A-412.

Section 9-1025 Powers of inspectors.

(a) Authority. Inspectors are hereby authorized, empowered, and directed to enforce all the provisions of this chapter.

(b) Right-of-entry. Inspectors shall have the right-of-entry on any premises within the jurisdiction of the regulatory codes herein adopted at reasonable hours for the purpose of inspection or enforcement of the requirements of this chapter, upon presentation of proper credentials.

(c) Stop orders. Whenever any building or part thereof is being demolished, constructed, reconstructed, altered or repaired in a hazardous manner, or in violation of any provision of this chapter or any other town ordinance, or in violation of any provision of any regulatory code herein adopted, or in violation of the terms of the permit issued therefor, or in such

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manner as to endanger life or property, the appropriate inspector may order such work to be stopped immediately. Such order shall be in writing to the owner of the property or his agent or to the person doing the work and shall state the reasons therefor and the conditions under which the work may be resumed.

Section 9-1026 Conflicts of interest.

No officer or employee of the inspection department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration or maintenance of a building or any part thereof or in the making of plans or specifications therefor, unless he is the owner of such building. No officer or employee of the inspection department shall engage in any work which is inconsistent with his duties or with the interest of the town.

Section 9-1027 Reports and records.

The inspection department and each inspector shall keep complete, permanent and accurate records in convenient form of all applications received, permits issued, inspections and re-inspections made and all other work and activities of the department. Periodic reports shall be submitted to the manager and to other agencies as required.

Section 9-1028 Inspection of work in progress - required generally.

(a) The inspection department shall inspect all buildings and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this article.

(b) When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations; provided, that no approval shall be based upon reports of such organizations unless the same are in writing and certified by a responsible officer of such organization.

(c) All holders of permits, or their agents, shall notify the inspection department and the appropriate inspector at each of the following stages of construction so that approval may be given before work is continued:

(1) Foundation inspection. To be made after trenches are excavated and the necessary reinforcement and forms are in place, and before concrete is placed. Drilled footings, piles and similar types of foundations shall be inspected as installed.

(2) Framing inspection. To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured in place concrete structural elements shall be inspected before each pour of any structural member.

(3) Fireproofing inspection. To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.

(4) Final inspection. To be made after building or structure has all doors hung, fixtures set, and ready for occupancy, but before the building is occupied.

State Law Reference: For similar state law on conflict of interest, see G. S. 160A415. Records, see G. S. 160A433. Inspection of work in progress, see G. S. 160A420.

Section 9-1029 Calls for inspection.

(a) Request for inspections may be made to the office of the inspection department or to the appropriate inspector. The inspection department shall make inspections as soon as practicable after request is made therefor, provided such work is ready for inspection at the time the request is made.

(b) Re-inspections may be made at the convenience of the inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his agent. Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this article.

Section 9-1030 Same; survey of street lines.

Street or alley lines. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley, or other public place, he shall secure a survey of the line of such street, alley, or other public place, adjacent to the property upon which such building or structure is to be erected before proceeding with construction of such building or structure. It shall be the duty of the building inspector to see that the building does not encroach upon such street, alley, or other public place.

Section 9-1031 Certificate of occupancy.

No new building or part thereof, no addition or enlargement of any existing building, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof until issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building. Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this chapter, the appropriate regulatory codes and any zoning ordinance for the occupancy intended. The inspection department shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of this chapter, the regulatory codes, and any zoning ordinance for the occupancy intended.

Section 9-1032 Oversight not to legalize violation.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the inspection department shall be deemed to legalize the violation of any provision of this chapter or any provisions of any regulatory code herein adopted.

Section 9-1033 through section 9-1040 reserved.

ARTICLE C
General Provisions

Section 9-1041 Scope of article.

(a) The provisions of this article and of the regulatory codes herein adopted shall apply to the following:

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.

(2) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems and all fixtures and appurtenances thereof.

(3) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air-conditioning and refrigeration systems, fuel burning equipment and appurtenances thereof.

(4) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof.

(b) The adoption of this article and the codes herein adopted by reference shall constitute a resolution within the meaning of section 143-138 (b) of the General Statutes of North Carolina making the regulatory codes herein adopted applicable to dwellings and out buildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two (2) families.

Section 9-1042 Registration of contractors; required.

Every person carrying on the business of building contractor, plumbing contractor, heating and air-conditioning contractor or electrical contractor within the town shall register at the office of the inspection department, giving his name and place of business.

Section 9-1043 Same; bond.

The building inspector may at his discretion request a good and sufficient bond in the sum of \$1000, to be approved by the town attorney, conditioned upon the faithful performance of a contractor in doing any work which he contracts to do and indemnifying the town against loss in any manner whatsoever for any unskillful or negligent work or conduct in the performance of the duties imposed by the provisions of this article, for any damage to any utility lines, streets or sidewalks in the town, for the use of defective or improper material in such work, for any damage which may accrue to any person by reason of default of the contract or for the payment of any inspection or other fees required by this article.

Section 9-1044 Permits; required.

(a) Building permit. No person shall commence or proceed with the construction, reconstruction, alteration, repair, removal or demolition of any building or any part thereof, without a written permit therefor from the building inspector; provided, that no building permit shall be required for work the total cost of which does not exceed \$100 and which

does not involve any change of the structural parts or the stairways, elevators, fire escapes or other means of egress from the building.

In cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of \$500 may be required to be posted by the property owner or by his contractor at the time of application for a permit to insure complete removal or demolition, including all rubble and debris. Failure on the part of the property owner or his contractor to completely demolish, remove and clear the premises after 30 days' notice by the building inspector, shall be cause for forfeiture of such bond.

(b) Plumbing permit. No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefor from the plumbing inspector; provided, that no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if such repairs or replacements do not disrupt an original water supply or the waste or ventilating systems.

(c) Heating and air-conditioning permit. No person shall commence or proceed with the installation, extension, alteration or general repair of any heating or cooling equipment system without a written permit from the heating and air-conditioning inspector; provided, that no permit shall be required for minor repairs or minor burner services or filter replacements of warm air furnaces or cooling system.

(d) Electrical permit. No person shall commence or proceed with the installation, extension, alteration or general repair of any electrical wiring, devices, appliances or equipment without a written permit therefor from the electrical inspector; provided, that no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed. No permit shall be required for the installation, alteration or repair of the electrical wiring, devices, appliances and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution or metering of electrical energy or for the use of such corporation in the operation of signals or the transmission of intelligence.

State Law Reference: For state law as to construction, plumbing, etc., see G. S. 160A417.

Section 9-1045 Same; contents of application.

Written application shall be made for all permits required by this article on forms provided by the inspection department at least five (5) days prior to construction. Such application shall be made by the owner of the building affected or by his authorized agent or representative, and, in addition to such other information as may be required by the appropriate inspector, shall show the following:

- (1) Name, residence and business address of the owner.
- (2) Name, residence and business address of the authorized representative or agent, if any.
- (3) Name and address of the contractor, if any, together with evidence that he has obtained a certificate from the appropriate state licensing board for such contractors, if such is required for the work involved in the permit for which application is made.

Section 9-1046 Same; plans and specifications.

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(a) Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building is in excess of the amount provided by state law, and for any other building where plans and specifications are deemed necessary by the appropriate inspector in order for him to determine whether the proposed work complies with the appropriate regulatory codes.

(b) Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this article.

(c) Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

Section 9-1047 Same; limitations.

(a) No building permit shall be issued for any building the estimated total cost of which is more than \$30,000 unless the work is to be performed by a licensed general contractor.

(b) No building permit shall be issued for any building, other than a one or two (2) family dwelling, the estimated total cost of which is more than \$30,000 unless the plans bear the state seal of a registered architect or a registered engineer.

(c) Where any provision of the state law or of this code or other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such contractor.

(d) Where detailed plans and specifications are required under this article, no building permit shall be issued unless such plans and specifications have been provided.

Section 9-1048 Same; issuance.

When proper application for a permit has been made and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter, he shall issue such permit upon payment of the proper fees as provided in section 9-2012.

Section 9-1049 Same; revocation.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing stating the reason for such revocation. Permits shall be revoked for any material departure from the approved application plans or specifications; for refusal or failure to comply with proper orders of the inspector; for refusal or failure to comply with requirements of this article, or for false statements or misrepresentations made in securing such permit.

Section 9-1050 Time limitations on validity of permit.

All permits issued under this article shall expire by limitation six (6) months after the date of issuance if the work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall

immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.

Section 9-1051 Changes in work after permit issued.

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate inspector.

Section 9-1052 Schedule of permit fees.

Fees for permits shall be based upon the total estimated cost of the proposed work, including all sub-contracts if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town as determined by the appropriate inspector. Permit fees shall be as set out in the schedule in the town clerk's office.

Section 9-1053 through section 9-1060 reserved.

ARTICLE D

Minimum Housing Standards

State Law reference–Municipal housing standards authorized, G.S. 160A-441 et seq.

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Division 1.

Section 9-1061 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this article, they shall be construed as though followed by the words "or any part thereof."

Accessory building or outhouse means a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or a contiguous lot.

Alter or alteration means any change or modification in construction or occupancy.

Basement means a portion of a building located completely underground or partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

Cellar means a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Code Official/Code Enforcement Officer means the official, or code enforcement officer, or other person charged with the administration and enforcement of this article or duly authorized representative.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any temporary dwelling or any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. "Manufactured home" or "mobile home" means a structure as defined in G.S. 143-145(7).

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Exit means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the code enforcement officer.

Floor area means the total area of all habitable space in a building or structure.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

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Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments and laundries.

Infestation means the presence, within or around a dwelling of any insects, rodents or other pests.

Multiple dwelling means any building or portion thereof which is designed, built, rent, leased, let or hired out to be occupied or which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

Occupant means any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Openable area means that part of a window, porch or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator means any person who has the charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

Owner means any person who, alone or jointly, or severally with others:

(1) Has title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or

(2) Has the charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he is the owner.

Parties in interest means all individuals, associations and corporations who have interest of record in a dwelling, and any who are in possession thereof.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supply fixtures, together with all connections to water, sewer or gas lines.

Premises means a lot, plat or parcel of land, including the buildings or structures thereon.

Public authority means any housing authority, or any official in charge of any department or branch of the government of the town, the county or the state relating to health, fire or building regulations, or to other activities concerning housing in the town.

Removal means the demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets which retain water.

Rooming/boarding house means any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to two (2) or more persons, who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating.

Rubbish means combustible or noncombustible waste materials except garbage, including but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and discarded appliances.

Story means that part of a building between one (1) floor and the floor or roof next above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Substandard means any condition existing in any housing or structure which does not meet the standards of fitness of this article.

Supplied means paid for, furnished or provided by, or under the contract of, the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable (i.e. motor home) and which is not attached to the ground, to another structure or to any utilities system on the same premises legally for more than sixty (60) consecutive days.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness established by this article.

Ventilation means the insufflation and the exsufflation of air by natural means to and from housing.

Ventilation, mechanical means ventilation by power- driven devices.

Ventilation, natural means ventilation by opening to outer air through windows, sky-lights, doors, louvers or stacks with or without wind-driven devices.

(Res. of 5/6/19)

Section 9-1062 Findings; purpose.

The Town Council finds and declares that there now exists in the town and its one-mile jurisdiction and may reasonably be expected to exist in the future, housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, adequate lighting or sanitary facilities; or because of conditions rendering such housing unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the town and its area of jurisdiction; and that a public necessity exists to exercise police powers of the town pursuant to G.S. Ch. 160A, art. 19, and other applicable laws, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of such housing in the manner provided in this article; and pursuant to the exercise for the police power, the Town Council finds as fact and so declares that the ensuing sections of this article are necessary to the implementation of its purposes hereinabove declared in this section and that, specifically, but without limitation, the minimum standards of fitness for dwellings and dwelling units as enacted in this article are reasonable and necessary for this community and

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are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this town are fit for human habitation.

(Res. of 5/6/19)

State Law reference–Similar provisions, G.S. 160A-441.

Section 9-1063 Conflicts.

The provisions of this article shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing, but are supplemental thereto and where the provisions of this article are similar to provisions of other applicable codes or ordinances, the more stringent provisions shall apply.

(Res. of 5/6/19)

Section 9-1064 Scope.

(a) Every building used in whole or in part as a dwelling unit or as two (2) or more dwelling units, or as a rooming house or boardinghouse, shall conform to the requirements of this article irrespective of the primary use of such building, and irrespective of when such building may have been constructed, altered or repaired.

(b) This article establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this article.

(c) In addition to the exercise of police power authorized in this article with respect to dwellings, the town shall cause to be repaired, closed or demolished any abandoned structure which the Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous condition constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be pursuant to the same provisions and procedures as are prescribed in this article for the repair, closing or demolition of dwelling found to be unfit for human habitation.

(Res. of 5/6/19)

Section 9-1065 Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action, or otherwise, or to enforce this article by criminal process or otherwise, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this Code or in other ordinances or laws.

(Res. of 5/6/19)

State Law reference–Similar provisions, G.S. 160A-450.

Section 9-1066 Right of access.

(a) For the purpose of making inspections, the code enforcement officer is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units,

rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the official free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination, and survey.

(b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this chapter.

(Res. of 5/6/19)

State Law reference—Power to inspect, G.S. 160A-412, 160A-424, 160A-448.

Section 9-1067 Methods of service of complaints and orders.

Complaints or orders issued by the official shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the official, he shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Res. of 5/6/19)

Section 9-1068 Compliance.

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the requirements of this article. No person shall occupy as a human habitation any dwelling or dwelling unit which does not comply with all of the requirements of this article.

(Res. of 5/6/19)

Section 9-1069 Space use.

The minimum standards for space use are as follows:

- (1) A principal area shall not have less than one hundred fifty (150) square feet.
- (2) A kitchen-dining room combination, if any, shall have not less than one hundred (100) square feet.
- (3) A first bedroom, if any, shall have not less than one hundred (100) square feet.
- (4) A second bedroom, if any, shall have not less than seventy (70) square feet.
- (5) Each habitable room shall have at least seventy (70) square feet.
- (6) At least one hundred fifty (150) square feet of floor space in habitable rooms shall be provided for the first occupant in each dwelling unit; at least one hundred (100) square feet of additional floor space shall be provided for each of the next three (3) occupants; and at least seventy-five (75) square feet of additional floor space shall be provided for each additional occupant over the number of four (4) (children one (1) year of age and under shall not be counted).

(7) At least seventy (70) square feet of bedroom floor space shall be provided for the first occupant; at least twenty (20) square feet of additional bedroom floor space shall be provided for the second occupant; and at least thirty (30) square feet of additional bedroom floor space shall be provided for each occupant over the number of two (2) (children one (1) year of age and under shall not be counted).

(8) Those habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven (7) feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven (7) feet. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area.

(9) No basement space shall be used as a habitable room or dwelling unit unless:

(a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.

(b) The total of window area in each room is equal to at least the window area sizes prescribed in the following section for habitable rooms.

(c) The total of functionally opening window area in each room is equal to at least the room area prescribed in the following section for habitable rooms, except where there is supplied some other device affording adequate ventilation approved by the director of inspections.

(10) Toilet and bathing facilities shall be structurally enclosed and shall be located so as not to require passage through an openable area.

(11) Bathroom walls, toilet room walls and bedroom walls shall have no holes or excessive cracks.

(12) Access shall be provided to all rooms within a dwelling unit without passing through a public space or another dwelling unit.

(13) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms and at all rooms adjoining a public space.

(14) Each living unit shall have a specific kitchen space, which contains a sink with counter workspace and has hot and cold running water and adequate space for storing cooking utensils.

(15) Electric, water and sewer must be in working order.

(Res. of 5/6/19)

Section 9-1070 Light and ventilation.

The minimum standards for light and ventilation are as follows:

(1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, they shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight- type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.

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(2) Every room in a dwelling unit and means of egress shall be sufficiently illuminated so as to provide safe and satisfactory uses.

(3) Year-round mechanically ventilating systems may be substituted for windows, as required herein, but must be approved by the code enforcement officer, in rooms other than rooms used for sleeping purposes.

(4) All outside windows and doors used for ventilation shall be screened.

(5) All windows and doors shall be made weather tight.

(6) Windows and doors shall have no broken glass and shall have adequate operable locks and hardware.

(7) Openable window area in each toilet room shall be at least two (2) square feet, unless served by mechanical ventilation.

(8) Natural ventilation of spaces such as attics and enclosed non-basement space shall be provided by openings of sufficient size to overcome dampness and to minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics.

(9) Utility spaces containing heat-producing, air-conditioning and other equipment shall be ventilated according to manufacturer's requirements.

(10) Mechanical ventilation shall be of sufficient size to eliminate dampness and odors of the area it is serving.

(Res. of 5/6/19)

Section 9-1071 Exits.

(a) Two (2) main exits, each at least thirty (30) inches wide and six (6) feet eight (8) inches high, easily accessible to the occupants of each housing unit, shall be provided, unless a single exit is permitted as an exception by provisions of the state building code, as from time to time amended. All exit doors shall be easily operable.

(b) Platforms, steps and/or handrails shall be provided to serve exits and maintained in a safe condition.

(Res. of 5/6/19)

Section 9-1072 Plumbing.

The minimum plumbing standards are as follows:

(1) The plumbing systems shall be connected to the town sanitary sewer system, where available; otherwise, the plumbing system shall be connected onto an approved septic tank.

(2) All plumbing fixtures shall meet the standards of the town plumbing code and shall be maintained in a state of good repair and in good working order.

(3) There shall be provided a hot water heater (minimum thirty-gallon capacity) furnishing hot water to each tub or shower, lavatory and kitchen sink.

(4) Installed water supply inside the building shall be provided for each housing unit.

(5) Installed water closet, tub or shower, lavatory and sink shall be provided for each dwelling unit.

(6) Separate toilet facilities shall be provided for each dwelling unit.

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- (7) Toilet and bathing facilities shall be structurally protected from the weather.
 - (8) All water piping shall be protected from freezing by proper installation in protected space.
 - (9) At least one (1) main vent of a minimum diameter of two (2) inches shall be properly installed for each building.
 - (10) Sewer and water lines shall be properly supported with no broken or leaking lines.
- (Res. of 5/6/19)

Section 9-1073 Heating.

The minimum heating standards are as follows:

- (1) Reserved.
- (2) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.
- (3) All gas-heating and oil-heating equipment installed on the premises shall be of a type approved by Underwriters' Laboratories or by the American Gas Association and shall be installed in accordance with the provisions of the state building code.
- (4) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the National Fire Prevention Association standards.
- (5) Chimneys and fireplaces shall have no loose bricks.
- (6) Flues shall have no holes.
- (7) There shall be no hanging masonry chimneys.
- (8) Thimbles shall be grouted in tight.
- (9) Thimbles shall be installed high enough for stovepipe to rise one-fourth inch per foot minimum.
- (10) Hearths shall be at least twenty (20) inches deep and seven (7) inches beyond each side of the fireplace opening.
- (11) No combustible materials shall be within seven (7) inches beyond each side of the fireplace opening.
- (12) If the fireplace opening is closed because of hazardous conditions, the closure shall be of masonry or other approved material as determined by the code enforcement officer.
- (13) Any stove shall be within six (6) feet of the thimble serving it.
- (14) Stovepipes and vents shall comply with volume 3 of the state building code.
- (15) No unvented combustible space heaters shall be used.

(Res. of 5/6/19)

State law reference—G.S. 136-443.1

Section 9-1074 Electricity.

The minimum electrical standards are as follows:

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(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles, which shall be connected in such manner as determined by the National Electric Code, as adopted by the town.

(2) No receptacles, ceiling fixtures or other fixtures shall be broken or hanging loose.

(3) All toggle switches and fixtures shall be safely operable.

(4) At least two (2) duplex convenience outlets, as remote from each other as practicable, shall be provided per habitable room.

(5) At least one (1) light outlet in each bathroom, hall, kitchen and porch, and over exterior steps to the second floor shall be provided.

(6) There shall be no bare wires, open joints or spliced cables.

(7) Flexible cords shall not be used as a substitute for the fixed wiring of a structure, nor shall flexible cords be run through holes in walls, ceilings or floors, through doorways, windows, or similar openings, or be attached to building surfaces or concealed behind building walls, ceilings or floors.

(8) No branch circuits shall be overloaded.

(9) A minimum of three (3) branch circuits, plus separate circuits for each fixed appliance, shall be provided in each dwelling unit.

(10) There shall be provided service equipment and a lighting panel of adequate capacity and size (minimum of sixty-ampere capacity) to accommodate the existing or the required number of branch circuits, and the equipment shall be properly grounded.

(11) Outlets in kitchens and bathrooms shall be ground-fault interrupter device protected.

(12) All residences shall have a smoke detector on each livable floor. The property owner shall be responsible for installing a fresh battery with change in tenants; the tenant shall be responsible for maintaining the unit and shall not commit any act that shall render the unit inactive.

(13) All rental dwelling units having a fossil fuel burning heater or appliance or fireplace shall provide a minimum of one operable carbon monoxide detector per unit per level. A carbon monoxide detector is also required for an attached garage. The landlord shall install, replace or repair the carbon monoxide monitor(s) unless the landlord and tenant have a written agreement to the contrary.

(Res. of 5/6/19)

Section 9-1075 Structural requirements.

The minimum structural standards shall be as follows:

(1) Foundation:

a. A foundation shall support the building at all points and shall be free of holes and cracks which admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.

b. The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.

c. Footings shall be sound and have adequate bearing capacity.

d. Piers shall be sound.

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- e. No wood stiff knees or other improper piers shall be allowed.
- f. All structures shall be underpinned or enclosed in an approved manner, such as aluminum, galvanized, asbestos or masonry.

(2) Floors:

- a. No rotted or termite-damaged sills shall be allowed.
- b. No broken, overloaded or sagging sills shall be allowed.
- c. Sills shall be reasonably level.
- d. Sills shall be properly and sufficiently supported.
- e. Sills shall clear the ground by at least eighteen (18) inches.
- f. No rotted or termite-damaged joists shall be allowed.
- g. No broken or sagging joists shall be allowed.
- h. Flooring shall be weather tight without holes or cracks which permit air to excessively penetrate rooms.
- i. Flooring shall be reasonably smooth, not rotten or worn through.
- j. No loose flooring shall be allowed.
- k. Floors shall be reasonably level.

(3) Walls, exterior:

- a. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- b. No studs which are rotted or termite-damaged shall be allowed.
- c. No broken or cracked structural members shall be allowed.
- d. No loose siding shall be allowed.
- e. Walls used as partitions shall not lean or buckle.
- f. No deteriorated siding or covering shall be allowed.

(4) Walls, interior:

- a. The interior finish shall be free of holes and cracks, which permit air to excessively penetrate rooms.
- b. No loose plaster, loose boards or other loose wall materials shall be allowed.
- c. There shall be no cardboard, newspaper or other highly combustible material allowed as a wall finish.
- d. No studs shall be rotted or termite-damaged.
- e. No broken or cracked studs or other broken or cracked structural members shall be allowed.

(5) Ceilings:

- a. No joists shall be rotted, broken or sagging or have improperly supported ends.
- b. There shall be allowed no holes or cracks, which permit air to excessively penetrate rooms.
- c. No loose plaster, loose boards, loose sheetrock or other loose ceiling finish shall be allowed.
- d. There shall be allowed as ceiling finishes no cardboard or other highly combustible material.

CONFIDENTIAL ATTORNEY WORK PRODUCT**(6) Roofs:**

- a. Rafters shall not be rotted, broken or sagging or have improperly supported ends.
- b. No rafters seriously fire-damaged shall be allowed.
- c. Attics shall be properly vented.
- d. No rotted, loose, or sagging sheathing shall be allowed.
- e. No loose roof covering shall be allowed nor shall there be allowed any holes or leaks, which could cause damage to the structure or rooms.
- f. Walls and chimneys shall have proper flashing.

(7) Stairs and steps:

- a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.
- b. Stairwells and flights of stairs more than four (4) risers or having risers more than thirty (30) inches high shall have rails not less than two (2) feet six (6) inches measured vertically from the nose of the treads to the top of the rail.
- c. Every rail shall be firmly fastened and maintained in good condition.
- d. No flight of stairs settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
- e. No rotting, sagging or deteriorated supports shall be allowed.

(8) Porches and appurtenances:

- a. Every outside and inside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be kept in sound condition and good repair.
- b. Protective railings shall be required on any unenclosed structure over three (3) feet from the ground level.

(9) Accessory structures: All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be raised to grade level and the debris therefrom removed from the premises.

(10) Supplied facilities: Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(Res. of 5/6/19)

Section 9-1076 Property maintenance.

The minimum property maintenance standards are as follows:

(1) Buildings and structures:

a. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative, with sufficient frequency to prevent deterioration.

b. Floors, walls, ceilings and fixtures shall be maintained in a clean and sanitary condition.

(2) Public areas: Every owner of a structure containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the structure and premises thereof.

(3) Rubbish and garbage: Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities.

(4) Premises:

- a. Fences and other minor structures shall be maintained in safe and substantial condition.
- b. Yards and courts shall be kept clean and free of physical hazards, rubbish, trash and garbage.
- c. No heavy undergrowth or accumulations of plant growth which are noxious or detrimental to health shall be allowed.
- d. Every premises shall be provided with all- weather vehicular access to and from the premises at all times by an abutting public or private street.
- e. Walks and steps, constructed so as to provide safety, reasonable durability and economy of maintenance, should be provided for convenient all- weather access to the structure.
- f. Access to the rear yard from each dwelling unit shall be required. Such access is not, however, acceptable where it is dependent upon passage through another dwelling unit. Each building shall be provided with access to the rear yard. This access for a detached dwelling shall be directly from a street.
- g. Any nonresidential use of the premises shall be subordinate to its residential use and character.

(5) Infestation:

- a. Premises, buildings and structures shall, by generally accepted methods of extermination, be maintained free of vermination and rodent harborage and infestation.
- b. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement or cellar, which might provide an entry for rodents, shall be supplied with screens installed or with such other approved devices as will effectively prevent entrance by rodents.
- c. Every head-of-household occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every head- of-household occupant of a dwelling unit in a structure containing more than one (1) dwelling unit shall be responsible for such extermination whenever the dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any structure or in the shared or public parts of any structure containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.

(6) Cleanliness: Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.

(7) Supplied plumbing fixtures: Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

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(8) Care of facilities, equipment and structure: No occupant shall willfully destroy, deface or impair any of the facilities or equipment of any part of the structure of a dwelling or dwelling unit.

(9) Lead Paint per North Carolina G.S. 130A-131.7 All property owners shall comply with lead paint provisions and abatement. Property owner assumes all costs of abatement and repairs. All homes constructed before the year 1978 will be subject to lead paint testing.

(Res. of 5/6/19)

Section 9-1077 Rooming/Boarding houses.

All of the provisions of this article and all of the minimum standards and requirements of this article shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

(1) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house whenever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(2) Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

(3) Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (50) square feet of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (70) square feet of floor space for each occupant thereof.

(4) Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area or of the state.

(5) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises when the entire structure or building is leased or occupied by the operator.

(6) No person shall operate a rooming house unless he holds a valid rooming house license and keeps same posted on the premises.

(7) The Town Council on a quarterly basis shall inspect rooming houses, according to G.S. 160A-424.

(Res. of 5/6/19)

Section 9-1078 Inspections; duty of owner and occupants.

Every occupant of a dwelling or dwelling unit shall give the owner thereof, or agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

(Res. of 5/6/19)

Section 9-1079 Refusal to permit entry for inspection.

It shall be unlawful for any owner or person in possession of premises on which housing is located in the town to refuse, after being presented with a warrant, as issued in accordance with state law, to permit the code enforcement officer or duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this article. Violation of this section shall subject the offender to a civil penalty.

(Res. of 5/6/19)

State law reference—Similar provisions, G.S. 15-27.2

Division 2.
Administration and Enforcement

Section 9-1080 Method of serving complaints, orders.

Complaints or orders issued by the code enforcement officer or designee under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public official in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the public official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the town at least once no later than the time at which personal service would be required under the provisions of the part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

(Res. of 5/6/19)

State law reference—Similar provisions, G.S. 160A-445.

Section 9-1081 Dwellings in violation; preventive action or proceeding.

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the official made pursuant to this article, the official may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Res. of 5/6/19)

State law reference—Similar provisions, G.S. 160A-446(g).

Section 9-1082 Petition for temporary injunction.

Any person aggrieved by an order issued by the official may petition the superior court for an injunction restraining the official from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the official pending a final disposition of the case. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty (20) days, and shall be given preference over other matters on the court calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction.

(Res. of 5/6/19)

State law reference—Similar provisions, G.S. 160A-446(f).

Section 9-1083 Enforcement by code official/ code enforcement officer; assistance from town agencies, departments.

(a) The code enforcement officer shall be responsible for the enforcement of this article.

(b) The code enforcement officer shall have authority to request the advice and assistance of the town planning board, the housing authority, the fire department, the health department, and any other public authority may be deemed appropriate, in determining those areas of the town in which substandard housing may be prevalent, and designate and schedule such areas for comprehensive inspection under this article. This procedure shall be in addition to regular, town wide inspections under this article.

(Res. of 5/6/19)

Section 9-1084 Powers of code official/code enforcement officer.

The code enforcement officer is authorized to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others granted:

(1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths; affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of officials, agents and employees necessary to carry out the purposes of the ordinances;

(5) To delegate any of the functions and powers under the ordinance to other officials and other agents.

(Res. of 5/6/19)

State law reference–Similar provisions, G.S. 160A-448.

Section 9-1085 Issue of complaint; hearing; determination of unfit dwelling; abatement procedure.

(a) Whenever a petition is filed with the code enforcement officer by a public authority or by at least five (5) residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the official that any dwelling or dwelling unit is unfit for human habitation, the code enforcement officer shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the official, at a place within the county, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend

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such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.

(b) If after such notice and hearing the official determines that the dwelling under consideration is unfit for human habitation, the code enforcement officer shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owners an order as follows:

(1) If the repair, alteration or improvement of the dwelling can be made at a cost not to exceed fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation;

(2) If the repair, alteration or improvement of the dwelling cannot be made at a cost not to exceed (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling.

(3) If a house has been closed and/or boarded, for a period of one year or longer, after being closed following proceedings under the substandard housing regulations and Town Council determines that the owner has abandoned the intent and purpose to render it fit for human habitation and that continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the community in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would cause or contribute to blight and deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or,

b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.

(c) The official is authorized to fix the reasonable value of any housing and to estimate the cost of repairs, alterations or improvements for the purposes of this section.

~~(d) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the official may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the official may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall be a misdemeanor as provided by G.S. 14-4(a). Any person who shall violate this section shall be guilty of a Class 3 misdemeanor~~

and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

(e) If the owner fails to comply with an order to remove or demolish the dwelling, the official may cause such dwelling to be removed or demolished; provided, however, that the powers of the official set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be unfit for human habitation and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(f) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Ch. 160A, art. 10. If the dwelling is removed or demolished by the official, he shall sell the materials of such dwelling, any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(g) If any occupant fails to comply with an order to vacate a dwelling, the public official may file a civil action in the name of the town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public official produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the official to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the public official to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.

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(h) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the town pursuant to section 9-1097.

(Res. of 5/6/19)

State law reference–Abatement procedures, G.S. 160A-443.

Section 9-1086 Appeals from orders of code official/code enforcement officer.

(a) An appeal from any decision or order of the code enforcement officer may be taken by any person who is the subject of the decision or order. Any appeal from the official shall be taken within ten days from the rendering of the decision or notice of the order, and shall be taken by filing a notice of appeal with the planning department which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the official shall forthwith transmit to the board of adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code enforcement officer refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the code enforcement officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board of adjustment, unless the official certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the code enforcement officer, by the board of adjustment, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and the provisions of this article.

(b) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the official, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the official. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(Res. of 5/6/19)

State law reference–Similar provisions, G.S. 160A-446(c), (d), (e).

Section 9-1087 Petition to superior court.

Any person aggrieved by an order issued by the official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the official pending a final disposition of the cause.

(Res. of 5/6/19)

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State law reference—Similar provisions, G.S.160A-446(f).

Section 9-1088 Unauthorized removal of posted complaint, notice or order.

~~No person without the written consent of the town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor. No person without the written consent of the town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person who shall violate this section shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~
(Res. of 5/6/19)

Section 9-1089 Renting unfit dwelling after notice.

When the official finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner to such effect and the time limit set by the official for the repair, alteration, improvement, removal, demolition or vacating and closing the same has expired, no person shall receive rentals or offer for rent or occupancy such dwelling or dwelling unit as a human habitation until such time as the order of the official is obeyed or reversed by a court of competent jurisdiction in accordance with the law. Each day such offense continues shall be deemed a separate offense. Any violation of this section shall subject the offender to a civil penalty.

(Res. of 5/6/19)

Section 9-1090 Certificate of occupancy.

(a) The town shall not provide, nor permit another to provide, either public or private utility services such as water, gas, electricity, sewer, etc., to any dwelling unit becoming vacant until such dwelling unit has been inspected, brought into compliance with this article and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services for alteration. The building official shall be responsible for making the determination as to when such temporary services may be necessary.

(b) No certificate of occupancy may be issued for any single-family or multi-family residential building on which construction is begun on or after January 1, 1978, until it has been certified as being in compliance by the energy and insulation official with the minimum insulation standards for residential construction, as prescribed in the state building code.

For structures built prior to 1978 and no insulation exists, the attic shall be insulated to an R-30 value. If insulation exists in a structure built before 1978, it must have an R-19 value.

(a) It shall be unlawful for any person to occupy, or allow another to occupy, or offer for rent, a dwelling or dwelling unit until a valid certificate of occupancy has been issued.

(Res. of 5/6/19)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 9-1091 Changes in work after permit issued.**

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

(Res. of 5/6/19)

Section 9-1092 Violations; penalty.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the official duly made and served as provided in this article, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this division, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement, or its vacation and closing, or removal or demolition. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(Res. of 5/6/19)

ARTICLE E**Minimum Standards for Non-Residential Buildings****Section 9-1093 Exercise of police powers; authority.**

The Town Council hereby finds and declares that there exists within the town limits and its environs unsafe structures which are a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens and its environs, a public necessity exists to exercise the police powers conferred upon the town for the repair, closing or demolition of such structures.

(Res. of 5/6/19)

Section 9-1094 Definition of abandoned and/or unsafe structure.

An abandoned and/or unsafe structure is defined as a nonresidential building or structure which has not been occupied by authorized persons for at least six (6) months and which persistently or repeatedly becomes unprotected or unsecured, or which has been occupied by unauthorized persons, or which presents a danger of structural collapse, fire, disease, or a threat to children.

(Res. of 5/6/19)

Section 9-1095 Procedure for enforcement.

(a) Duty of code official/code enforcement officer. It shall be the duty of the code official or code enforcement officer to examine non-residential structures located in the town and its environs where conditions described in section 9-1094 exist for the purpose of locating and taking action with respect to such structures as appear to be a health or safety hazard. In exercising this power, department members shall have the right to enter on any premises within the jurisdiction of the department at all reasonable hours for purposes of inspection or other enforcement action, upon presentation of proper credentials.

(b) Notice of complaint. If the inspection discloses health or safety hazards as described in this article, the official shall affix a notice of unsafe character in a conspicuous place on the exterior wall of the structure giving notice of its unsafe or dangerous conditions and cause to be served upon the owner of and parties in interest to the structure a complaint stating the charges and containing a notice. If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. 160A-426 shall fail to take prompt corrective measures, the official shall give him written notice, by certified or registered mail to the last known address or by personal service, that the building or structure is in a condition that appears to meet one or more of the following conditions:

- (1) Constitutes a fire and safety hazard;
- (2) Is dangerous to life, health, or other property;
- (3) Is likely to cause or contribute to blight, disease, vagrancy or danger to children; or
- (4) Has a tendency to attract person/s intent on criminal activities or other activities which would constitute a public nuisance.

A hearing will be held before the official at a designated place therein fixed, not less than ten (10) nor more than thirty (30) days after serving of said complaint. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the town at least once, not later than one week prior to the hearing.

No oversight or dereliction of duty on the part of any official or employee of the town shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code adopted in this chapter.

(c) Hearing. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.

(d) Procedure after hearing. After such hearing, if the official finds that a structure constitutes a health or safety hazard, the code enforcement officer shall state in writing the findings of fact in support of such determination. In such case, the official shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, close, vacate or demolish the structure as necessary to correct the health or safety hazard within a specified period of time.

(Res. of 5/6/19)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 9-1096 Appeal; finality of order if not appealed.**

Any owner who has received an order under G.S. 160A-429 may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the official and to the town clerk within ten days following issuance of the order. In the absence of an appeal, the order of the official shall be final. The Board of Adjustment shall hear and render a decision in an appeal within a reasonable time. The Board of Adjustment may affirm, modify and affirm, or revoke the order.

(Res. of 5/6/19)

Section 9-1097 Securing, closing and demolition by the town.

If the owner fails to comply with an order of the official to repair, secure and close, vacate or demolish, the official shall take one (1) or more of the following actions as necessary:

- (a) Secure the issuance of a warrant charging such owner with violation of this article;
- (b) Secure and close said structure;
- (c) Cause such structure to be repaired, altered or improved; or
- (d) Cause such structure to be demolished.

(Res. of 5/6/19)

State law reference–Similar provisions, G.S. 15-27.2

Section 9-1098 Actions by Town Council.

(a) The powers of the official as set forth in section 4-103(c) and (d) shall not be exercised until the Town Council has by ordinance ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be a health or safety hazard and which shall be described in the ordinance. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(b) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Ch. 160A, Art. 10. If the structure is removed or demolished by the official, he shall sell the materials of such structure, any personal property, fixtures or appurtenances found in or attached to the structure, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

(Res. of 5/6/19)

Section 9-1099 Failure to comply with order.

~~If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he shall be guilty of a Class 1 misdemeanor, additionally subject the offender to civil penalty to be recovered by the town pursuant article G.S. 14-4. Every day~~

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~~such person shall willfully fail or refuse to comply with any final order or direction of the code enforcement officer or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense. If the owner of a building or structure fails to comply with an order issued pursuant to G.S. 160A-429 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less, as provided by G.S. 14-4. Every day such person shall willfully fail or refuse to comply with any final order or direction of the code enforcement officer or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.~~

~~(Res. of 5/6/19)~~

Section 9-1100 Lien on property.

The amount of the cost of such repair, alterations, improvements, vacating and closing, or demolition ordered by the Town Council or by the official shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to G.S. Ch. 160A, Art. 10.

(Res. of 5/6/19)

Section 9-1101 Other unlawful actions.

(a) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 4-103 of this article.

(b) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:

- (1) Compliance with the provisions of the notice, complaint or order; or
- (2) Furnish a copy of any notice, complaint or order to the transferee, lessee, or mortgagee, and give written notice to the official of said action.

(Res. of 5/6/19)

Section 9-1102 Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisance and to cause their abatement by summary action or otherwise, or the enforcement of any other remedy or remedies provided or in other ordinances of laws.

(Res. of 5/6/19)

Section 9-1103 Conflicts with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with a provision of any other ordinance or code of the town, the provision which establishes

the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town and environs shall prevail.

(Res. of 5/6/19)

Section 9-1104 Unsafe buildings condemned.

An official may declare a nonresidential building or structure within a community development target area designated by the Town Council, or within a development zone authorized by G.S. 105-129.3.A or G.S. 160A-503(10) to be unsafe if it meets both of the following conditions:

- (1) It appears to the official to be vacant or abandoned; and
- (2) It appears to the official to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

(Res. of 5/6/19)

Section 9-1105 Appeals in general.

Unless otherwise provided by law, appeals from any order, decision or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the commissioner of insurance or appointed designee or other official specified in G.S. 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision or determination. Further appeals may be taken to the state building code council or the courts as provided by law.

(Res. of 5/6/19)

Section 9-1106 Changes in work after permit issued.

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

(Res. of 5/6/19)

Section 9-1107 Report of owner's failure to comply with code official's/ code enforcement officer's order.

If the owner does not appeal from the final order or direction of the code enforcement officer requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the official to file a written report thereof with the town manager, who shall cause such report to be placed on the agenda for action by the Town Council at its next ensuing regular meeting or at some subsequent meeting to which the Town Council may continue the same. The code enforcement officer shall mail a copy of such report by certified or registered mail to the owners last known address or have a copy of such report delivered to such owner. Such

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report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

(Res. of 5/6/19)

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ARTICLE F
Abandoned Manufactured Homes

Section 9-1108 Intent.

(a) The intent of this article is to protect the public health and environment through the deconstruction of abandoned manufactured homes to reduce blight and unattractive nuisances.

(b) It is a policy of the town to promote the removal of reusable or recyclable materials to reduce the impact of such solid wastes and production of said materials on the environment.
(Res. of 5/6/19)

Section 9-1109 Abandoned, nuisance and junked mobile homes unlawful.

(a) It shall be unlawful for the registered owner or person entitled to possession of a manufactured home and for the owner, lessee or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home or a public nuisance.

(b) A manufactured home shall be deemed to be an abandoned manufactured home for the purposes of this article in the following circumstances: any manufactured home that is either vacant or in need of extensive repair; and an unreasonable danger to public health, safety, welfare or the environment.

(c) A manufactured home shall be considered abandoned when it has not been occupied for at least 120 days and meets any of the following criteria:

- (1) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
- (2) Has been boarded up for at least 30 days;
- (3) Has taxes in arrears for a period of time exceeding 365 days;
- (4) Has all utilities disconnected or not in use.

(Res. of 5/6/19)

Section 9-1110 Notice requirements for abandoned manufactured homes.

The town shall notify the responsible party and the land owner for each identified abandoned manufactured home in writing and shall be sent to the person in the form of certified mail.

(Res. of 5/6/19)

Section 9-1111 Removal of abandoned manufactured homes.

(a) The owner or responsible party shall be given 60 days from receipt of the written notice to dispose of the abandoned manufactured home in a legal manner.

(b) If the owner or responsible party fails to comply with this order, the town shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and

arranging to have the home deconstructed and disposed of in a manner consistent with the town's garbage collection and disposal provisions.

(c) The property owner does not remove said abandoned manufactured home a lien will be placed against the real property, if not paid within 30 days, and shall be collected as unpaid taxes.

(Res. of 5/6/19)

Section 9-1112 Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked manufactured home, for disposing of such manufactured home as provided in this article.

(Res. of 5/6/19)

Section 9-1113 Appeals.

(a) Within the 60-day period mentioned in section 9-1111, the owner of the property where the nuisance exists may appeal the findings of the enforcement official to the Board of Adjustment by giving written notice of appeal to the enforcement official, the appeal to stay the abatement of the nuisances by the enforcement official until a final determination by the Board of Adjustment. In the event no appeal is taken, the enforcement official may proceed to abate the nuisance.

(b) The Board of Adjustment, in the event an appeal is taken as provided in division (a) above, may, after hearing all interested persons and reviewing the findings of the enforcement official, reverse the finding made pursuant to section 9-1111, but if the Board of Adjustment shall determine that the findings of the enforcement official pursuant to section 9-1111 are correct and proper, it shall declare the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the town and public nuisance, and direct the enforcement official to cause the conditions to be abated.

(Res. of 5/6/19)

Sections 9-1114 through 9-1121 Reserved.

CHAPTER 2 Subdivision Regulations

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ARTICLE A
Subdivision Ordinance for Valdese, North Carolina

Section 9-2001 Title.

This chapter shall be known and may be cited as the "The Subdivision Ordinance for the town of Valdese, North Carolina". (Ord. of 11/3/08)

Section 9-2002 Authority and enactment clause.

The Town Council of the town, pursuant to the authority conferred by Chapter 160A-371 through Section 160A-376 of the General Statutes of the State of North Carolina, does hereby ordain and enact into law these Articles and Sections.(Ord. of 11/3/08)

Section 9-2003 Jurisdiction.

On and after the date of adoption, these regulations shall govern each and every subdivision of land submitted for review within the town (hereinafter referred to as the "town"). (Ord. of 11/3/08)

Section 9-2004 Purpose.

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the town. It is further designed to provide for the orderly growth and development of the town; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of right-of-way or easements for streets and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This chapter is designed to further facilitate adequate water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller tracts of land. (Ord. of 11/3/08)

Section 9-2005 No service or permits until final plat approved.

No street shall be accepted and maintained by the town nor shall any street lighting, water, or sewer be extended to nor connect with any subdivision of land nor shall any permit be issued by an administrative agent or department of the town for the construction of any building or other improvement requiring a permit upon any land concerning which a plat is required to be approved, unless and until the requirements set forth in this chapter have been complied with. (Ord. of 11/3/08)

9-2005.1 Prerequisite to plat recordation.

After the effective date of this chapter, each major subdivision plat of land within the town's jurisdiction shall be approved by the Town Council following a recommendation from the Planning Board prior to plat recordation. Minor subdivisions, as defined in the chapter, shall be approved by the Subdivision Administrator prior to plat recordation. Nothing herein

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compels the approval of any proposed subdivision by the Town Council or the Subdivision Administrator except in accordance with the provisions of this chapter. (Ord. of 11/3/08)

Section 9-2006 Penalties for violation.

After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this chapter, thereafter subdivides such land in violation of the chapter or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such chapter and recorded in the office of the Burke County register of deeds, shall be subject to the penalties listed below. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Council, may enjoin illegal subdivision, transfer, or sale of land by injunction.

~~(a) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred dollars (\$200) or by imprisonment not to exceed thirty (30) days.~~

(b) A violation of this chapter shall be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the tax collector at the Valdese Town Hall within seventy-two (72) hours from the time of issuance of the written citation.

(c) Each day's continuing violation shall be a separate and distinct offense.

(d) The provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

(e) This chapter may be enforced by any one, all, or a combination of the remedies authorized herein.

(Ord. of 11/3/08)

Section 9-2007 Severability.

Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. of 11/3/08)

Section 9-2008 Variances.

The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship is likely to result from strict compliance. In granting any variance, the Board shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board finds all the following:

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(1) That there are special circumstances or conditions affecting said property such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land; and

(2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and

(3) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the town's jurisdiction, and

(4) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the vicinity in which said property is situated. (Ord. of 11/3/08)

Section 9-2009 Registration of plats.

Registration of all plats shall be in accordance with G.S. 47-30. (Ord. of 11/3/08)

Section 9-2010 Amendments.

(1) The Town Council may from time to time amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The planning Board shall have thirty (30) days from the submittal date of the proposed amendment within which to submit its report. If the Board fails to submit a report within the specific time, it shall be deemed to have recommended approval of the amendment.

(2) No amendment shall be adopted by the Town Council until it has held a public hearing on the amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the town area at least once a week for two (2) consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than twenty-five (25) or less than ten (10) days prior to the hearing date. In computing the ten (10) to twenty-five (25) day period, the date of the first publication shall be counted, but the date of the hearing shall not be counted. (Ord. of 11/3/08)

Section 9-2011 Abrogation.

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. (Ord. of 11/3/08)

Section 9-2012 Thoroughfare plans.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon an officially adopted thoroughfare plan of the town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter. (Ord. of 11/3/08)

Section 9-2013 School sites on land use plan.

North Carolina General Statute 160A-372 provides for the reservation of school sites in accordance with a comprehensive land use plan approved by the Town Council. In order for

this authorization to become effective, before approving such plans, Town Council and the Burke County Board of Education shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land use plan. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the Town shall immediately notify the Board of Education and the Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Town of Valdese and no site shall be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have eighteen (18) months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within eighteen (18) months, the subdivider may treat the land as freed of the reservation.

(Ord. 11/3/08)

Section 9-2014 Zoning and other plans.

Proposed subdivisions must comply in all respects with the requirements of the zoning chapter in effect in the area to be subdivided and with the requirements of any other adopted plans. (Ord. of 11/3/08)

Section 9-2015 through section 9-2019 reserved.

ARTICLE B
Definitions

Section 9-2020 Definitions.

For the purpose of this chapter, certain words or terms used herein shall be defined as follows:

(a) Access corridors. A strip of land lying between the side lot boundary lines of lake or river front lots offering access to lots at least one lot depth away from the water's edge.

(b) Buffer. A buffer as required by certain sections of these regulations shall be one of, or equal to one of the following:

(1) A six (6)-foot high wood basket-weave type fence.

(2) A six (6)-foot high solid picket type fence with the pickets being placed facing the adjoining property.

(3) A six (6)-foot high chain link type fence with panel inserts.

(4) A six (6)-foot high open type fence with evergreen vegetation planted facing the adjoining property and completely blocking the view from one area to another.

(5) A six (6)-foot high solid masonry wall.

(6) Other and/or additional screening as required by the Zoning Enforcement Officer.

(c) Building. Any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, or property of any kind.

(d) Building setback line. A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five feet (5') of any uncovered porches, steps, gutters, and similar fixtures, and related front, rear, or side property, or a right-of-way line if the right-of-way is closer to the building.

(e) Clerk of Superior Court. Clerk of Superior Court of Burke County, North Carolina.

(f) Council or Town Council. The Town Council of Valdese, North Carolina.

(g) Dedication. A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by written instrument and is completed with an acceptance.

(h) Double frontage lot. A continuous (through) lot which is accessible from both streets upon which it fronts.

(i) Easement. A right to use the land of another for a special purpose such as a right of ingress and egress, or a right to maintain a utility line across the land of another.

(j) Expedited review. Review process whereby the town may require only a final plat for the recordation for a division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel of land to be divided is not exempted as a ten-acre exemption.

(2) No part of the tract or parcel to be divided has been divided in ten years prior to the division.

(3) The entire tract or parcel of land must be greater than five acres.

(4) The division of the tract or parcel of land must not result in more than three lots.

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(5) The resulting lots must meet lot dimension requirements of any applicable land use, if any

(6) The use of any lot shall be in conformity with applicable zoning requirements, if any.

(7) The resulting lots must have a permanent means of ingress and egress designated on a recorded plat. The subdivision must ensure access for the newly created lots.

(8) The final plat shall be prepared in accordance with Section 9-2035 (The Final Plat) of the town subdivision regulations and must be approved the local government's review officer.

(k) Flag lot. A lot so shaped and designed that the main building site area is set back from the street on which it fronts and has an access strip connecting the main building site with frontage street.

(l) Hillside subdivision. Land proposed to be subdivided which has a slope of sixteen per cent (16%) or greater. That is, an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.

(m) Lot. A parcel of land occupied or capable of being occupied by a main building or group of buildings and accessory buildings, together with such yards, open spaces, and lot areas as are required by the zoning ordinance, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds.

(n) Lot front. A portion of the lot adjacent to the street. In the case of lots ~~wh~~October 30, 2017~~ich~~ which abut a stream, lake, or pond, the lot front is considered to be the part of the lot which abuts the water.

(o) Minor subdivision. A subdivision of land that meets the following criteria:

(1) Involving not more than five (5) lots fronting on an existing approved street; and

(2) Not involving any new street or prospectively requiring any new street for access to interior property; and

(3) Not requiring extension of public sewage or water lines or creation of new drainage easements through lots to serve property at the rear; and

(4) Not adversely affecting the development of the remainder of the parcel or of adjoining property; and

(5) Creating no new or residual parcels not conforming to the requirements of these regulations.

(6) All included land must be under ownership of one sponsor.

(p) Official maps or plans. Any maps or plans endorsed by the Town Council as a guide to the development of Valdese.

(q) Ordinance. The Subdivision Ordinance for Valdese, North Carolina.

(r) Pedestrian walkways. Any paved or unpaved public or private route intended for pedestrian use, including a pedestrian path or esplanade, regardless of use by other transportation modes.

(s) Planned unit development. The planned unit development is a permitted use designed to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. Such development may consist of individual lots or

common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.

(t) Planning Board. The Planning Board of the Town of Valdese, North Carolina.

(u) Plat. A map or plan of a parcel of land, which is to be or has been subdivided.

(v) Plat, final. A map of certain described land prepared in accordance with this chapter as an instrument for recording with the Burke County Register of Deeds.

(w) Private streets. Any right-of-way or area set aside to provide vehicular access which has not been accepted for maintenance or intended to be accepted for maintenance by the town or the State of North Carolina, and which is not maintained by the town or the State of North Carolina. An entity other than the town, such as property owners, homeowners association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.

(x) Recreation area or park. An area of land or combination of land and water resources that is developed for active and/or passive recreation that may include manmade features that accommodate such activities.

(y) Reservation. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

(z) Single-tier lot. A lot which backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

(aa) Streets. A dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply:

(1) Access street. A platted street designed for the purpose of giving access to adjacent property owners.

(2) Alley. A minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.

(3) Arterials. This thoroughfare category includes those streets and highways which carry large volumes of traffic at moderate speeds through and within Valdese. These thoroughfares provide access to major commercial, industrial, and public traffic generators.

(4) Major collector streets. As the name indicates, traffic from local streets is collected by these thoroughfares and carried to arterial streets. While also serving as connectors between arterials, these streets

perform an additional function of providing access to abutting properties. Smaller volumes of traffic are carried on these streets and speeds are lower.

(5) Local or minor streets. The local street system comprises all facilities not in one of the higher systems. It serves primarily to provide direct access to abutting land and access to the higher order system.

(6) Cul-de-sac. A short local street having but one end open to traffic and the other end being permanently terminated and a vehicular turn-around provided.

(bb) Subdivider. Any person, firm, organization, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

(cc) Subdivision. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate

or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations established herein, with exception to zoning, building code and fire code regulations:

EXEMPTIONS

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in its subdivision regulations;

(2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the town, as shown in this chapter.

(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the general statutes.

(dd) Subdivision Administrator. The Planning Director for Valdese, North Carolina, or his designated agent.

(ee) Town Council. The Town Council of the town.
(Ord. of 11/3/08; as amended by Ord. of / /)

Section 9-2021 and section 9-2022 reserved.

Section 9-2023 Word interpretation.

For the purpose of this chapter, certain words shall be interpreted as follows:

(a) The word "may" is permissive.
(b) The words "shall" and "will" are mandatory.
(c) The present tense includes the future tense and the future tense includes the present tense.

(d) The singular includes the plural and the plural includes the singular. (Ord. of 11/3/08)

ARTICLE C**Procedure for review and approval of subdivision plats****Section 9-2030 Approval prerequisite to plat recordation.**

No final plat of a general subdivision within the jurisdiction of the town as established in Section 9-2003 shall be recorded by the Register of Deeds of Burke County until it has been approved by the proper board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this section. (Ord. of 11/3/08)

Section 9-2030.01 Plat required.

In accordance with G.S. 160A-372, a final plat shall be prepared, approved, and recorded pursuant to the provisions of this chapter whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the town as established in Section 9-2003 of this chapter that is exempt from these regulations as provided by Section 9-2020 of this chapter, a plat clearly displaying such change must be presented to the Subdivision Administrator. Each plat must be accompanied by a fee set forth in the town's fee schedule.

(Ord. of 11/3/08)

Section 9-2031 Minor subdivision approval process.

(a) If the land to be subdivided meets the requirements of a minor subdivision as defined in Section 9-2020, the subdivider will not have to follow the same procedures as for a major subdivision. The Subdivision Administrator shall approve minor subdivision plats if the subdivider owns, leases, holds an option, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way from the property to be subdivided, then the subdivision shall not qualify under the abbreviated procedure for approval as a minor subdivision.

(b) The developer of a minor subdivision shall obtain all required permits and provide all necessary information related to water, sewer, sediment/erosion control, stormwater control, stream assessment, wetland assessment, watershed, historical and archeological sites.

(c) The review process for a minor subdivision shall be adequate to protect the public interest, but shall also provide minimum delay and expense to the subdivider. A preliminary plat is not required. The developer may go from a sketch plan to a final plat with approval of the Subdivision Administrator. However, the following minor plat approval process may be used only where the subdivision meets the requirements of a minor subdivision as defined in Section 9-2020. (Ord. of 11/3/08)

Section 9-2031.01 Procedure for review of minor subdivisions.

A preliminary plat shall not be required for approval for minor subdivisions. Prior to submission of a final plat, the subdivider shall submit to the Subdivision Administrator the sketch plan of the proposed subdivision containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- (2) The boundaries of the entire tract and the portion of the tract to be subdivided;
- (3) The total acreage to be subdivided;
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- (5) The existing street layout and right-of-way width, lot layout and size of lots;
- (6) The name, address and telephone number of the owner and/or developer;
- (7) The name, if any, of the proposed subdivision;
- (8) Streets and lots of adjacent developed or platted properties;
- (9) The zoning classification of the tract of land and of adjacent properties. (Ord. of 11/3/08)

Section 9-2031.02 Review procedure.

The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter, and shall advise the subdivider or his agent of the regulations pertaining to the proposed minor subdivision and the procedures to be followed in the preparation and submission of the final plat. (Ord. of 11/3/08)

Section 9-2031.03 Approval of sketch plat by Subdivision Administrator.

Upon approval of the sketch plan, the subdivider shall be advised that the final plat may be prepared as long as it conforms to the sketch plan. The approval of the sketch plan shall in no way be construed as constituting official approval of the final plat. (Ord. of 11/3/08)

Section 9-2031.04 Dispute of findings.

In the event that the subdivider disagrees with any findings of the Subdivision Administrator concerning approval of a sketch plan of a minor subdivision, the matter shall be taken to the Planning Board for a decision. No final plat shall be prepared until the Planning Board has acted on the disputed sketch plan.
(Ord. of 11/3/08)

Section 9-2031.05 Dispositions of copies.

A copy of the sketch plan shall be retained as part of the files of the Subdivision Administrator, with the original drawing being returned to the subdivider or his authorized agent. (Ord. of 11/3/08)

Section 9-2031.06 Final plat approval for minor subdivisions.

(1) The Subdivision Administrator shall review the final plat for complete compliance with the requirements outlined for final plat approval of these minor subdivision regulations. The final plat shall be complete and show all information required for final plats in Section 9-2035, and all certifications and notarizations required in Section 9-2031.07 for final plat approval of a minor subdivision.

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(2) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in G.S. 47-30 as amended and the Manual of Practice for Land Surveying in North Carolina. In the event of conflict between the provisions for plats, subdivision and mapping requirements set forth in G.S. 47-30 as amended and the Manual of Practice for Land Surveying in North Carolina, the provisions as set forth in G.S. 47-50 as amended shall control.

(3) Three copies of the final plat shall be submitted to the Subdivision Administrator. One of these shall be on reproducible material; two (2) shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Manual of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Burke County Register of Deeds. In the event of conflict between material and drawing medium for the original as set forth in the Manual of Practice for Land Surveying in North Carolina and the requirements of the Burke County Register of Deeds, the requirements of the Burke County Register of Deeds shall control.

(4) The final plat shall be of a size suitable for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines. (Ord. of 11/3/08)

Section 9-2031.07 Certifications to be depicted on final plat.

(1) The final plat shall meet the specifications in Section 9-2035. The following certificates shall appear on all three copies of the final plat:

(a) Certificate of ownership and dedication:

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Valdese, and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

Owner Date

(b) Certificate of survey and accuracy: In accordance with the Manual of Practice for Land Surveying in North Carolina on the face of each map prepared for recordation there shall appear a certificate executed by the person making the survey or map including deeds any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following form:

State of North Carolina Burke County

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I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book __, Page __, Book __, Page __, etc.) (Other); the ratio of precision as calculated by latitudes and departures is 1: __ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __); that this map was prepared in accordance with G.S. 47-30 as amended.

Witness my hand and seal this __ day of _____ 20__.

Registered Land Surveyor Official Seal

Registration Number

(c) In accordance with G.S. 47-30, the following certificate must be included on the final plat:

State of North Carolina Burke County

I, _____, review officer of Burke County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer Date

(d) During his review of the final plat the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the cost shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.

(e) If the Subdivision Administrator finds that the minor subdivision final plat is in full compliance with the requirements of this article, he/she may then sign the following certification:

I hereby certify that the minor subdivision plat hereon has been found to comply with the minor subdivision regulations for Town of Valdese and is hereby approved for recording in the office of the Register of Deeds.

Subdivision Administrator Date

(f) If the Subdivision Administrator does not approve the final plat, he shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article and resubmit the same for reconsideration by the Subdivision Administrator, or appeal to the Town Council. If the subdivider appeals to the Town Council, the Council shall review and approve or disapprove the final plat within two (2) regularly scheduled Town Council meetings after it receives the plat and recommendations of the Subdivision Administrator. (Ord. of 11/3/08)

Section 9-2032 Major subdivision approval process.

The following sections shall be followed to obtain approval of all major subdivisions. (Ord. of 11/3/08)

Section 9-2032.01 Sketch plan for major subdivisions.

Prior to the preliminary plat submission, the subdivider shall submit to the Subdivision Administrator a sketch plan of the proposed subdivision for review and comment containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- (2) The boundaries of the tract and the portion of the tract to be subdivided;
- (3) The total acreage to be subdivided;
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of the land adjoining it;
- (5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- (6) The name, address and telephone number of the owner;
- (7) The name of the proposed subdivision;
- (8) Streets and lots of the adjacent developed or platted properties;
- (9) The zoning classification of the tract and of the adjacent properties. (Ord. of 11/3/08)

Section 9-2033 Preliminary plat — submission and review.

(1) For every subdivision within the territorial jurisdiction established by Section 9-2003 of this chapter which does not qualify for the abbreviated minor subdivision procedure, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Planning Board before any construction or installation of improvements may begin.

(2) Eight (8) copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator at least twenty (20) days prior to the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Subdivision Administrator shall review the preliminary plat for general compliance with the requirements of this chapter and any other applicable chapters and shall advise the subdivider or his authorized agent of the procedures to be followed in the preparation and

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submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for recording of the subdivision by the Planning Board or the Town Council as required by this chapter.

(3) Submission of the preliminary plat shall be accompanied by the fee as set forth in the town's fee schedule.

(4) Preliminary plats shall be of suitable size for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals two hundred (200) feet. Maps may be placed on more than one sheet with appropriate match lines. (Reference to Section 9-2035.02 and 9-2035.03)

(5) Preliminary plats shall meet the specifications in 9-2035.05.

(6) After having received the preliminary plat from the subdivider, the Subdivision Administrator shall submit copies of the preliminary plat and any other accompanying material to other officials or agencies concerned with new development including, but not limited to:

- a. The district highway engineer as to proposed streets, highways, and drainage systems;
- b. The County Environmental Health Director or Valdese Public Works Director as to proposed water or sanitary sewer systems;
- c. Any other agency or official designated by the Planning Board or other town official.

(7) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least twenty (20) days after the Subdivision Administrator receives the preliminary plat and the comments from the appropriate agencies.

(8) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within twenty (20) days of its first consideration of the plat.

(9) If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes, and transmit two (2) copies of the plat to the Town Council with its recommendation.

(10) If the Planning Board recommends conditional approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two (2) copies of the plat and its recommendation to Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.

(11) If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit two (2) copies of the plat and its recommendation to the Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.

(12) If the Planning Board does not make a written recommendation within thirty (30) days after its first consideration of the plat, the subdivider may apply to the Town Council for approval or disapproval.

(13) If the Planning Board recommended disapproval of the preliminary plat, the subdivider may present the preliminary plat to the Town Council at its next regularly scheduled meeting which follows the Planning Board's decision by at least twenty (20) days. Failure of the subdivider to present the preliminary plat whose disapproval was recommended by the Planning Board at said regularly scheduled Town Council meeting

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constitutes abandonment of the plat as submitted, but shall not prevent the subdivider from subsequently submitting to the Planning Board a revised preliminary plat for the same parcel of land in accordance with the provisions of this chapter.

(14) If the Town Council approves the preliminary plat, such approval shall be noted on two (2) plats. One plat shall be retained by the Town Council and one copy shall be returned to the subdivider. If the Town Council approves the preliminary plat with conditions, approval shall be noted on two (2) plats along with a reference to the conditions. One plat along with the conditions shall be retained by the Town Council and one preliminary plat along with the conditions shall be returned to the subdivider. If the Town Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One plat and the reasons shall be retained by the Town Council and one plat shall be returned to the subdivider. (Ord. of 11/3/08)

Section 9-2033.01 Information to be contained or depicted on the preliminary and final plats.

The preliminary and final plats shall depict or contain the information indicated in the following table. An "X" indicates that the information is required:

INFORMATION	Preliminary	Final
INFORMATION	Preliminary	Final
Title Block Containing	X	X
Property designation		
Name of Owner		
Location (including township, county and state)		
Date or dates survey was conducted and plat prepared		
A scale of drawing in feet per inch listed in words or figures		
A bar graph.		
Name, address, registration number of the registered land surveyor		
Name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X
Names, addresses and telephone numbers of all owners, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	X	X
Registration numbers and seals of professional engineers	X	X
The boundaries of the tract, or portion thereof, to be subdivided, distinctly and accurately represented with all bearings and distances shown	X	X
North arrow and orientation	X	X
The names of owners of adjacent properties	X	X

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The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands	X	X
The names of any adjoining subdivisions of record or proposed and under review	X	X
The zoning classifications of the tract to be subdivided and adjoining properties	X	X
Existing property lines of tract to be subdivided and adjoining properties	X	X
Existing buildings or other structures water courses, railroads, bridges, culverts, storm drains on the land to be subdivided and land immediately adjoining	X	X
Proposed lot lines, lot and block numbers, and approximate dimensions	X	X
The lots numbered consecutively throughout the subdivision		X
Wooded areas, marshes, swamps, rock outcrops, ponds, lakes, streams, streambeds and any other natural features affecting the site	X	X
The exact location of the flood hazard, floodway and floodway fringe from the community's FEMA maps	X	X
Base flood elevation data for subdivisions which contain at least five (5) lots or fifty acres, whichever is less		

STREET INFORMATION	Preliminary	Final
STREET INFORMATION	Preliminary	Final
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way locations and dimensions	X	X
Pavement widths	X	X
Design engineering data for all corners and curves	X	X
Typical street cross sections	X	X
Street names	X	X
Street maintenance agreement in accordance with Section 9-2050.04 and 9-2050.05 of this chapter		X
Type of street dedication; all streets must be designated "public" or "private."	X	X

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Where public streets are involved which will be dedicated to the town, the subdivider must submit all street plans to the Subdivision Administrator for approval prior to preliminary plat approval.

Where public streets are involved which will not be dedicated to the town, the subdivider shall supply the Subdivision Administrator with all the appropriate documentation for NCDOT District Highway Office review and approval.

Where streets are to be dedicated to the public, but have not been accepted into the town or the state system before lots are sold, a statement explaining the status of the streets in accordance with Section 9-2050.05 of this chapter X

If any street is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the NCDOT, Division of Highways' Manual on Driveway Regulations. X

Evidence that the subdivider has obtained such approval X X

OPEN/COMMON/PUBLIC SPACE	Preliminary	Final
OPEN/COMMON/PUBLIC SPACE	Preliminary	Final
Location of all easements	X	X
Trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purposes of each stated	X	X
The future ownership of recreation and open space lands	X	

Dedication or reservation for public use to governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership.

UTILITY INFORMATION	Preliminary	Final
Location of all utility easements	X	X

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If deemed necessary by the Subdivision Administrator, the plans for utility layouts including: X X

Sanitary sewers

Storm sewers

Other drainage facilities, if any

Water distribution lines

Natural gas lines

Telephone lines

Cable or Internet lines

Electric lines

Plans should illustrate connections to existing systems, showing line sizes, the location of fire hydrants, blow-offs, manholes, force mains and gate valves.

Plans for individual water supply and sewerage disposal systems, if any X X

SITE CALCULATIONS Preliminary Final

SITE CALCULATIONS Preliminary Final

Acreage in total tract to be subdivided X X

Acreage in parks and recreation areas, and other nonresidential uses X X

Total number of parcels created X X

Acreage of each lot in the subdivision X X

Linear feet in streets X

The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places X X

Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line (with errors of closure), block line and building line, whether curved or straight, and including true north point. This should include the radius, central angle, point of tangency, tangent distance and arcs and chords of all curved streets and curved property lines. All dimensions should be to the nearest one-tenth (1/10) of a foot and angles to the nearest minute. X

The accurate location and description of all monuments, markers and control points X

A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established X X

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A copy of the erosion control plan submitted to the appropriate authority, if such plan is required.	X	X
Topographic map with contour intervals of no greater than 20 ft. at a scale of no less than 1:24,000		X
All certifications required in section 9-2035.04		X
Any other information considered by either the subdivider, Planning Board or Town Council to be pertinent to the review of the plat.	X	X

Plats not illustrating or containing the above listed data shall be returned by the Subdivision Administrator to the subdivider or his authorized agent for completion and resubmission. (Ord. of 11/3/08)

Section 9-2034 Final plat approval process.

Section 9-2034.01 Improvements Installation.

Upon the approval of the preliminary plat by the Planning Board and Town Council, the subdivider may proceed with the preparation of the final plat and install the required improvements or arrange for installation of the required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have completed installation of the improvements or provided guarantees of such installation, as specified in this chapter. (Ord. of 11/3/08)

Section 9-2034.02 Town participation and costs.

The town at the election of the Town Council, may participate in the costs of providing water and sewer services and in the cost of paving streets and sidewalks, including curb and guttering, in accordance with the plans shown on the approved plat. If the subdivider desires town participation, a written request should be made to the town prior to the installation of any improvements.

(Ord. of 11/3/08)

Section 9-2034.03 Performance guarantee.

(1) Following approval of the preliminary plat by the Town Council, the subdivider may proceed with the preparation of the final plat and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Planning Board or Town Council unless accompanied by a written notice by the Town Manager and/or Town Engineer acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the

subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter.

(2) In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town Council, if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide, subject to the approval of Town Council, either one, or a combination of the following:

(a) Surety performance bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to the town and shall be in an amount equal to one hundred twenty five percent (125%) of the entire cost, as estimated by the subdivider and approved by the Town Council, of installing all required improvements. The duration of the bond(s) shall be until such time as the improvements are accepted by Town Council.

(b) Cash or equivalent security. The subdivider shall deposit cash and irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of Town Council. The amount of deposit shall be equal to one hundred twenty five percent (125%) of the cost, as estimated by the subdivider and approved by Town Council, of installing all required improvements. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with Town Council an agreement between the financial institution and himself guaranteeing the following:

1. That the escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of escrow; and

2. That in case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Town Council, and submission by Town Council to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the town the funds estimated to complete the improvements, up to the full balance of the escrow account or deliver to the town any other instrument fully endorsed or otherwise made payable in full to the town.

3. Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the town the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The town shall return to the subdivider any funds not spent in completing the improvements.

- (4) The Town Council may release a portion of any security posted as the improvements are completed and recommended for approval by the Planning Board. Within thirty (30) days after receiving the Planning Board recommendation, the Town Council shall approve

said improvements. If the Town Council approves said improvements, then it shall immediately release any security posted. (Ord. of 11/3/08)

Section 9-2034.04 Defects guarantee.

(1) The Town Council shall require a bond guaranteeing utility taps, curbs, gutters, street pavement, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one year. If said improvements are constructed at different times, then said guarantee shall continue until one year from the date of acceptance of the improvement last constructed. The amount of the bond shall be determined by the Town Manager or consulting engineer and shall be in cash or made by a surety company authorized to do business in North Carolina.

(2) The Town Council shall require the subdivider to submit a letter to the Town Clerk in which he agrees to maintain all improvements and any ditch which has been dug in connection with the installation of such improvements. The obligation to maintain all improvements and ditches shall be binding to the subdivider for a period of one year following the acceptance of the improvements by the town. (Ord. of 11/3/08)

Section 9-2034.05 Final plat review.

No final plat will be accepted for review by the Planning Board or Town Council unless accompanied by written notice by the staff planner acknowledging compliance with this chapter. (Ord. of 11/3/08)

Section 9-2035 The final plat.

The final plat may be approved for only that portion of the preliminary plat, which the subdivider proposes to record and develop; however, all properties on the final plat shall conform to all requirements of this chapter. No final plat shall be approved unless and until the subdivider shall have installed, in that area represented on the final plat, all improvements required by this chapter (or shall have guaranteed their installation as provided for in Section 9-2034.03 of this chapter and all permanent reference points described in Article D of this chapter).

(Ord. of 11/3/08)

Section 9-2035.01 Plat submitted.

The subdivider shall submit five (5) copies of the final plat, so marked, to the Subdivision Administrator not less than twenty (20) days prior to the Planning Board meeting at which the approval of the plat is to be considered. One additional copy shall be prepared in accordance with G.S. 47-30 and shall bear all the required certifications set forth in Section 9-2035.04 of this chapter, at which time it will be considered for approval. The reproducible drawing shall be given to the Subdivision Administrator not later than the date of the Planning Board meeting at which approval is requested. The plat shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved; provided, however, a written extension of this time limit may be granted by the Planning Board on or before the one-year anniversary of the approval. (Ord. of 11/3/08)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 9-2035.02 Size of plat and scale.**

Final plats shall be of a size suitable for recording with the Burke County Register of Deeds. Where size of land areas or suitable scale to assure legibility require, maps may be placed on two (2) or more sheets with appropriate match lines. Final plats shall be drawn at a scale of one (1) inch equals two hundred (200) feet, or greater. (Ord. of 11/3/08)

Section 9-2035.03 Plat prepared.

The final plat shall be prepared by a surveyor licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of G.S. 47-30. (Ord. of 11/3/08)

Section 9-2035.04 Certifications required.

The following signed certificates shall appear on the reproducible copy of the final plat which is submitted to the Planning Board by the subdivider:

- (a) Certification of ownership and dedication.

I hereby certify that I am/we are the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of Valdese and that I/we hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

Owner Date

(Notary Statement)

(b) Certificate of survey and accuracy. In accordance with the Manual of Practice for Land Surveying in North Carolina on the face of each map prepared for recordation there shall appear a certificate executed by the person making the survey or map including deeds any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following form:

State of North Carolina Burke County

I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book __, Page __, Book __, Page __, etc.) (Other); the ratio of precision as calculated by latitudes and departures is 1: __ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __); that this map was prepared in accordance with G.S. 47-30, as amended.

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Witness my hand and seal this ____ day of _____ 20__.

Registered Land Surveyor Official Seal

License or Registration Number

(c) Certificate or approval of the design and installation of utilities, and other required improvements.

I hereby certify that all required improvements have been installed in an acceptable manner and according to the Valdese specifications and standards in the Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to Valdese have been received.

Valdese Town Manager Date

(d) If the Planning Board approves the final plat, such approval shall be indicated on each copy of the plat by the following signed certificate:

CERTIFICATION OF APPROVAL BY THE PLANNING BOARD.

The Valdese Planning Board hereby approves the final plat for the _____ Subdivision.

Chairman, Valdese Planning Board Date

(e) If the Town Council approves the final plat, such approval shall be shown on each recordable plat by the following signed certificate:

CERTIFICATION OF APPROVAL BY THE TOWN COUNCIL

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Ordinance for Valdese, North Carolina and that this plat has been approved by the Town Council for recording in the Office of the Register of Deeds of Burke County.

Town Clerk, Town of Valdese Date

(f) Certificate of private street designation.

All roads in this subdivision are hereby declared private and shall not be maintained by the Town of Valdese or the North Carolina Department of Transportation. The maintenance of all streets and roads in this subdivision shall be the responsibility of , and it shall be the responsibility of to bring the roads up to the standards of the North Carolina Department of Transportation Secondary Roads Council or the Town of Valdese before any private streets or roads on this plat are included, at any time after the approval of this plat, into the North Carolina State Maintained Road System or into the town's municipal system.

Subdivider or Agent

(g) Certificate of review officer approval.

State of North Carolina Burke County

I, _____, review officer of Burke County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer Date

(Ord. of 11/3/08)

Section 9-2035.05 Contents required.

The final plat shall depict or contain the information listed in Section 9-2033. Plats not illustrating or containing the data listed in Section 9-2033 shall be returned by the Subdivision Administrator to the subdivider or his authorized agent for completion and resubmission. (Ord. of 11/3/08)

Section 9-2036 Review procedure.

Final plats shall be reviewed according to the following procedure. (Ord. of 11/3/08)

Section 9-2036.01 Planning Board review.

(a) The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration.

(b) During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

(c) If the Planning Board disapproves the final plat, the Subdivision Administrator shall state in writing its reasons for such action, specifying the provisions of this chapter with which the plat does not comply. One copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval and one copy shall be retained by the Planning Board as part of its proceedings. If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter and resubmit same for reconsideration by the Planning Board.

(Ord. of 11/3/08)

Section 9-2036.02 Town Council review.

(a) Upon approval of the final plat by the Planning Board, the Town Council shall review and approve or disapprove the plat at its next regularly scheduled meeting, which takes place at least fifteen (15) days after the Planning Board submits its recommendation. This applies only if the Planning Board recommendation is submitted at least fifteen (15) days prior to the Town Council's regularly scheduled meeting.

(b) If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this chapter with which the final plat does not comply. One (1) copy of such reasons shall be retained by the Town Council as a part of its proceedings, one (1) copy shall be transmitted to the Subdivision Administrator, and one (1) copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this chapter and resubmit same for consideration by the Planning Board as identified in Section 9-2036.01. (Ord. of 11/3/08)

Section 9-2036.03 Disposition of copies.

Upon action by the Town Council on the final plat, the Subdivision Administrator shall retain one (1) copy and return the reproducible copy and any other copies to the developer. The reproducible plat shall be filed with the Register of Deeds. One (1) print shall be retained by the Subdivision Administrator. (Ord. of 11/3/08)

Section 9-2036.04 Recording the final plat.

The subdivider shall file the approved major subdivision final plat with the Register of Deeds of Burke County for recording within sixty (60) days after the date of the Town Council approval. Otherwise, such approval shall be null and void. The subdivider shall file the approved minor subdivision final plat with the Register of Deeds of Burke County for recording within sixty (60) days after the date of the Subdivision Administrator approval. Otherwise, such approval shall be null and void.

(Ord. of 11/3/08)

Section 9-2036.05 Resubdivision procedures.

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For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

- (a) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;
- (b) Drainage, easements, or rights-of-way shall not be changed;
- (c) Street alignment and block sizes shall not be changed;
- (d) The property line between the back of the lots shall not be changed;
- (e) The rear portion of lots shall not be subdivided from the front parts; and
- (f) The character of the area shall be maintained.

(Ord. of 11/3/08)

Section 9-2036.06 Recombination of land.

(1) Any plat or any part of any plat may be voided by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be voided.

(2) Such instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(3) Such instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

(4) When lots have been sold, the plat may be voided in the manner provided in subsections (1) through (3) of this section by all owners of the lots in such plat joining in the execution of such writing. (Ord. of 11/3/08)

Section 9-2037 through section 9-2039 reserved.

ARTICLE D**Installation of permanent reference points and improvements****Section 9-2040 Permanent reference points.**

Prior to the approval of the final plat, permanent reference points shall have been placed in accordance with the following requirements:

(1) Subdivision corner tie. At least one (1) corner of the subdivision shall be designated by course and distance (tie) as required by standards of practice set forth in G.S. 47-30.

(2) Monuments. Within each block of a subdivision at least two (2) monuments designed and designated as control corners shall be installed. Installation of monuments shall be in accordance with the standards of practice set forth in G.S. 47-30.

(3) Property markers. A steel or wrought iron pipe, solid iron pin, rebar or the equivalent not less than one-half (1/2) inch in diameter and at least eighteen (18) inches in length shall be set at all property corners or offset in the property line if the property corner is inaccessible (center of creek or street, etc.), except those located by monuments. A marker shall also be set at a point of curve, point of intersection, property corner, point of tangency along street right of way and reference point unless a monument is placed at said points. Additional markers shall be placed where necessary. (Ord. of 11/3/08)

Section 9-2040.01 Public sites and open space.

In subdividing property, due consideration should be given by the subdivider and the Planning Board to the designation of suitable sites for parks, schools, and other uses. Such provision should be indicated on the sketch plan in order that it may be determined when and in what manner such areas will be required. (Ord. of 11/3/08)

Section 9-2040.02 Accesses to parks, schools, etc.

Streets shall be designed and walkways dedicated to assure convenient access to adjacent parks, playgrounds, schools and other places of public assembly. Dedicated walkways shall not be less than ten (10) feet in width.
(Ord. of 11/3/08)

Section 9-2040.03 Restrictions on land subject to flooding.

Lots that are subject to flooding shall not be established in subdivisions for the purpose of creating residential building sites except as herein provided. Where the developer proposes to provide a levee or raise the floor elevations above the flood level, an engineering report shall accompany the subdivision application.

(1) If there is any watercourse of any type running through or within one hundred and fifty (150) feet of the property proposed for subdividing, the prospective subdivider shall furnish reasonable evidence to the Planning Board that residential lots within the subdivision will not be flooded.

(2) No proposed residential building lot shown that is wholly subject to flooding shall be approved. (Ord. of 11/3/08)

Section 9-2041 Design and standards and required improvements.

Street requirements for subdivisions shall meet the current Minimum Construction Standards of North Carolina Department of Transportation, Division of Highways, and all of the requirements of this chapter. In the case of conflict in requirements, the more stringent shall apply except in the case of specific exceptions allowed for hillside subdivisions. (Ord. of 11/3/08)

Section 9-2042 through section 9-2049 reserved.

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ARTICLE E

Required improvements, dedication, reservation and minimum standards of design

Section 9-2050 General requirements.

Each major subdivision shall contain the improvements specified in this article, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Land shall be dedicated and reserved in each major subdivision as specified in this article. Each major subdivision shall adhere to the minimum standards of design established by this article. (Ord. of 11/3/08)

Section 9-2050.01 Conformity to existing maps or plans.

The location and width of all proposed streets shall be in conformity with official plans, the adopted thoroughfare plan, maps of the town and existing or amended plans of the Planning Board. Property owners must reserve required right-of-way for proposed road improvements, identified in the adopted thoroughfare plan, when developing property. (Ord. of 11/3/08)

Section 9-2050.02 Continuation of existing roads.

The proposed road layout shall be coordinated with the existing road system of the surrounding area and, where possible, existing principal roads shall be extended. (Ord. of 11/3/08)

Section 9-2050.03 Access to adjacent properties.

Where, in the opinion of the Planning Board, it is desirable to provide access to an adjoining property, proposed roads shall be extended by dedication to the boundary of such property and a temporary turnaround shall be provided. (Ord. of 11/3/08)

Section 9-2050.04 Private streets.

Private streets may be allowed in subdivisions; ten- acre exempt developments and gated subdivisions provided they meet minimum construction standards of NC Department of Transportation Subdivision Roads manual, the town subdivision general requirements and minimum standards of design, and the North Carolina State Fire Code. The town will not maintain any private street. The town will not maintain any private street. The town will not accept into its street maintenance system any private street that does not meet the standards listed in this chapter. (Ord. of 11/3/08; as amended by Ord. of / /)

Section 9-2050.05 Subdivision street disclosure statement.

(a) All streets shown on the final plat shall be designated in accordance with G.S. 136-102.6 as either public or private. The designation of the streets as public shall be conclusively presumed as an offer of dedication to the public.

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(b) Where streets are dedicated to the public but not accepted into the town's municipal system, before lots are sold, a statement explaining the status of the street shall be included in the final plat.

(c) For all private streets, a disclosure statement naming the responsible party for street maintenance shall be included on the final plat in accordance with 9-2035.04(f). (Ord. of 11/3/08)

Section 9-2050.06 Large tracts and parcels.

Where land is subdivided into lots greater than one (1) acre and less than ten (10) acres, such parcels shall be arranged so as to allow for the opening of future roads and logical further re-subdivision. (Ord. of 11/3/08)

Section 9-2050.07 Lots.

All lots shall front upon a public or private street. Every lot must front for at least thirty-five (35) feet on a public or private street. Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curbed street lines. (Ord. of 11/3/08)

9-2050.07.1 Flag lots.

The Planning Board may approve flag lots in exceptional cases where it is impractical to serve an isolated lot by a public street. The frontage of the flag lot shall have a minimum width of thirty-five (35) feet providing an access strip between two (2) regular lots to the isolated building site. The area of such strip shall be excluded in computing the lot area and width, and the length of said strip shall not exceed three hundred (300) feet. The lot must be able to meet all dimensional and size requirements of the designated zoning district. (Ord. of 11/3/08)

Section 9-2050.08 Reserved.**Section 9-2050.09 Contour map.**

A contour map shall be provided if requested by the Subdivision Administrator. The contour interval required will depend upon topographic and drainage characteristics and shall be specified by the Subdivision Administrator. (Ord. of 11/3/08)

Section 9-2050.10 Street names.

Proposed streets, which are obviously in alignment with others existing and named, shall bear the assigned name of the existing streets. In no case shall the name for proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, etc. (Ord. of 11/3/08)

Section 9-2051 Design standards.

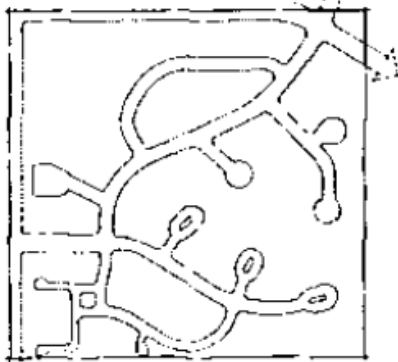
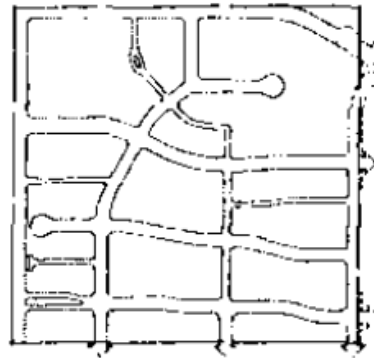
The following design standards shall be considered minimum requirements unless the subdivision qualifies as a Hillside Subdivision (See Section 9-2054) or the Cluster Design

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Open Space option is used (See Section 9-2053). Streets or roads of types not listed in the following standards, such as arterials, shall meet the requirements of the Thoroughfare Plan, the NCDOT, and the Planning Board. (Ord. of 11/3/08)

Section 9-2051.01 Public streets.

All streets shall be designed, within natural limitations of the land, to form part of an interconnected pattern as illustrated below:

**A****B**

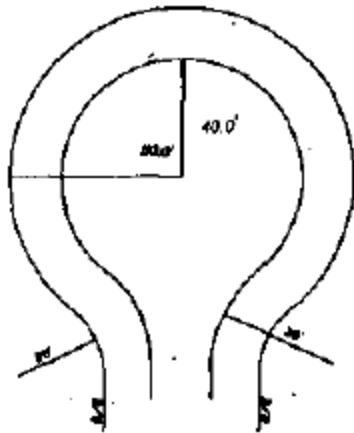
- A A common subdivision showing a poor street layout due to few connections and many dead ends.
- B Better street layouts showing multiple links and a gridded network of streets.

(a) Right-of-way widths. Minimum street right-of-way widths shall be in accordance with the major street plan and shall be not less than the following:

TYPE OF STREET	MINIMUM RIGHT-OF-WAY (FEET)
(1) Arterial	100
(2) Collector streets - Minor	60
(3) Local or minor (residential streets)	50
(4) Cul-de-sacs*	100
(5) Alleys**	20

* The distance from the edge of the pavement of the cul-de-sac to the right-of-way line shall not be less than the distance from the edge of the pavement to the right-of-way line on the street into the cul-de-sac.

** Only allowed with a conditional use permit in a planned unit development.



(b) Pavement widths. Width for local roads and streets shall be as follows:

ROAD TYPE	PAVEMENT WIDTH WITH CURB AND GUTTER	PAVEMENT WIDTH WITHOUT CURB AND GUTTER
Residential Collector	30	24
Local or Minor (Residential Streets)	22	22
Cul-de-sac	80	80
Alley*	16	16

* Only allowed with a conditional use permit in a planned unit development

(c) Grades. Street grades shall be as follows:

Street Type	Maximum Grade	Minimum Grade without Curb & Gutter	Minimum Grade with Curb and Gutter
Local or Minor	12%	0.5%	1%
Collector	9%	0.5%	1%
Alley*	12%	0.5%	1%
Cul-de-sac	5%	1%	1%

* Only allowed with a conditional use permit in a planned unit development

Grades approaching intersections shall not exceed five percent (5%) for a distance of not less than one hundred (100) feet from the centerline of said intersection.

(d) Horizontal curves. Where a centerline deflection angle occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

Street Type	Radius (in feet)
Collector Streets	230
Local or Minor	150
Alley*	35

* Only allowed with a conditional use permit in a planned unit development

(e) Vertical curves. All vertical curves shall have such length as necessary to provide safe sight distance based on NCDOT Minimum Construction Standards for Subdivision Roads.

(f) Intersections. Streets shall be laid out as follows:

(1) Streets shall intersect as nearly as possible at right angles and no street shall intersect at less than seventy-five (75°) degrees.

(2) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

(3) Intersections with a major street or highway shall be at least eight hundred (800) feet apart. This requirement may be waived by the Planning Board if such requirement would prevent a property owner fronting on a major street or thoroughfare from having access to such a major street or highway.

(g) Cul-de-sacs. Permanent dead end streets are strongly discouraged except when required by extreme topography, water, other natural features. When permitted, no dead-end street shall be longer than twelve hundred (1200) feet or provide access to more than twelve (12) lots. Measurement shall be from the center line of the last intersection of a through street to the center of the turnaround of the cul-de-sac. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid extension of an important street.

(h) Marginal access streets. Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. When reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(i) Nonresidential streets. The subdivider of a nonresidential subdivision shall provide streets in accordance with the NCDOT Division of Highways Subdivision Roads Minimum Construction Standards, July 1, 1985 as amended, and the standard of this chapter, whichever are stricter in regard to each particular item. Cross-access between adjacent commercial subdivision, existing and new, is strongly encouraged wherever possible.

(j) Access points. Subdivisions that front on more than one public road shall provide a minimum of one access point on at least two (2) public roads. Exceptions may be made due to extreme topography, water and other natural features. If a subdivision has more than one access point on the same public road, those access points must be separated by at least three hundred (300) feet or as many feet as possible based on the property's road frontage, topography, water and other natural features affecting the property. (Ord. of 11/3/08)

Section 9-2051.02 Blocks.

The maximum and minimum length and width of blocks shall be as follows:

(a) Length. Block lengths shall not exceed twelve hundred (1200) feet nor be less than four hundred (400) feet. Where deemed necessary by the Planning Board, a pedestrian path easement of at least ten (10) feet in width may be required.

(b) Widths. Blocks shall be wide enough to allow two (2) tiers of lots of minimum depth, except where fronting on major streets or prevented by topographic conditions or abutting a water area, in which case a single tier of lots may be approved.

(c) Block numbers. Block numbers shall conform to the town street numbering system, if applicable. (Ord. of 11/3/08)

Section 9-2052 Lot designs.

All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning district. It is not sufficient merely for the average lot to meet zoning requirements. (Ord. of 11/3/08)

Section 9-2052.01 Lots.

The size, shape, and orientation of lots shall reflect due consideration for topography and drainage. Lots shall conform to the requirements of this chapter and, in addition, shall conform to the following provisions. (Ord. of 11/3/08)

Section 9-2052.02 Arrangement.

All lots shall front upon a public or private street. Every lot must front for at least thirty-five (35) feet on a public or private street. Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curved street lines. Double frontage lots shall be avoided wherever possible except where marginal access streets will be provided as per section 9-2051.01(h). (Ord. of 11/3/08)

Section 9-2052.03 Lake frontage lots.

Lake frontage lots shall have a minimum width of one hundred (100) feet at the front building line. All other lots within four hundred and sixty feet (460) of the official pond level of the lakes within Burke County shall have a minimum width of one hundred (100) feet at the front building line. Lots shall also adhere to the Rule 15A NCAC 02B.0243 by the NC Division of Water Resources entitled Catawba River Basin: Protection and Maintenance of Existing Riparian Buffers. (Ord. of 11/3/08; as amended by Ord. of 2/6/17)

Section 9-2052.04 Area.

All lots shall have an area that complies with the requirements of the zoning district in which the lot is located. (Ord. of 11/3/08)

Section 9-2052.05 Width.

All lots shall have a minimum width that complies with the requirements of the zoning district in which the lot is located. (Ord. of 11/3/08)

Section 9-2052.06 Depth.

All lots shall have a minimum mean depth that complies with the requirements of the zoning district in which the lot is located. (Ord. of 11/3/08)

Section 9-2052.07 Orientation of lot lines.

Side lot lines shall be substantially at right angles or radial to street lines. (Ord. of 11/3/08)

Section 9-2052.08 Building setback lines.

Building setback lines shall comply with the requirements of the zoning district in which the lot is located. (Ord. of 11/3/08)

Section 9-2052.09 Easements.

(1) Utility and drainage easements centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet in width, and ten (10) feet on either side of the property lines. A greater width may be required for the installation and maintenance of the facility.

(2) Pedestrian path easements of ten (10) feet in width shall be provided when such area is required by the Planning Board.

(3) Where a subdivision is or will be traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and an additional width of twelve and one-half (12.5) feet from said lines of the water course for the construction and maintenance. (Ord. Of 11/3/08; as amended by Ord. of 2/6/17)

Section 9-2052.10 Reserved.**Section 9-2052.11 Storm water drainage.**

(1) The subdivision must meet the latest adopted requirements specified by the state sediment and erosion control program, town watershed protection ordinance, phase II stormwater ordinance, national flood insurance program, US Army Corp of Engineers regulations, (Section 404 of the Clean Water Act), and any other jurisdictional requirements under local, state, and federal rules or laws. Terms used in this section are as defined in the North Carolina Erosion and Sediment Control Planning and Design Manual.

(2) Where curbs and gutters are constructed, they shall be in accordance with the standards of the North Carolina Department of Transportation's Guidelines for Curb Cuts and Ramps for Handicapped Persons.

(3) No surface water shall be channeled or directed into a sanitary sewer.

(4) Where feasible, the subdivider shall connect the storm water drainage system to an existing storm drainage system.

(5) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(6) Surface drainage courses shall have side slopes of at least three (3) feet or horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each one hundred (100) feet of horizontal distance.

(7) Where a subdivision is or will be traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and an additional width of twelve and one-half (12.5) of the said lines of the water course for the construction and maintenance

(8) Where storm sewers, drains and structures are installed, they shall be of a size and type and location as required by this chapter, town standards, and good engineering practices. The minimum size of storm drains shall be fifteen (15) inches in diameter. The design flow for storm sewer collectors shall be at least a ten (10) year storm frequency and the design flow shall be at a twenty-five (25) year storm frequency for culverts and storm sewers crossing streets. Storm drains carrying water from street right-of-way shall be placed along lot lines where feasible and shall extend for a distance of thirty-five (35) feet minimum back of the building line. All off-street storm drains or extensions shall be installed initially by the subdivider and the responsibilities thereafter shall be transferred to the purchaser(s) (or property owners association if applicable). Such extensions shall have permanent easements centered with the pipe. The utility easement shall be of a width determined necessary for maintenance purposes by the town Public Works Department based upon enclosure depth, topography and location of existing and proposed improvements, but no less than twenty (20) feet. The town shall have a right to enter for maintenance purposes where it determines that the public health, safety, or general welfare constitutes a public necessity for such maintenance. However, the town does not otherwise maintain off-street storm drains. Where easements are required, they shall be noted on the final plat.

(9) All pipes in street rights-of-way shall be constructed of N.C. Department of Transportation approved plastic, reinforced concrete, corrugated-aluminum or aluminized steel.

(10) Culverts shall be provided to accommodate all natural water flow and shall be sufficient length to permit full width roadway and the required slopes. Cross drains shall be built on straight line and grade shall be laid on a firm base, but not on rock. Pipes shall be laid with the spigot pointing in the direction of the flow and with the end filled and matched to provide tight joints and a smooth uniform invert. They shall be placed at a sufficient depth below the roadbed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than one foot (1') below the road bed.

(11) Where off-site runoff is to be conveyed through the subdivision, the design of pipes and/or channels shall be based on the full build out of the off-site drainage area(s) based on current zoning.

(12) Where storm water is released from a storm drainage system, whether onto the developed tract or to an off-site tract, the water shall be released in a non-erosive manner such that downstream properties are not damaged. Such protection shall be designed based on the design storm applicable to the storm drainage system.

(Ord. of 11/3/08; as amended by Ord. of 2/6/17)

Section 9-2052.12 Water and sewer utilities.

(a) All lots within new major subdivisions shall connect to town water system and sanitary sewer system if available. These utilities shall be installed at the subdivider's expense.

(b) Water and sanitary sewer systems shall be designed by a qualified North Carolina registered professional engineer. System design and construction shall be in accordance with this chapter, town standards, and good engineering practices, as well as with all applicable local, state and federal rules and laws.

(c) All easements for water and sewer lines to be installed outside the public street right-of-way shall have a minimum width of twenty-five (25) feet, centered with the pipeline. (Ord. of 11/3/08)

Section 9-2052.13 Pedestrian walkways.

(a) All major subdivisions are encouraged to incorporate pedestrian facilities. These facilities include, but are not limited to, sidewalks, walking trails, paths, bicycle lanes and green ways. New facilities shall connect to existing facilities if there are any present.

(b) All sidewalks shall conform to all current Americans With Disabilities Act (ADA) standards. All sidewalks shall be placed in the right-of-way. (Ord. of 11/3/08)

Section 9-2053 Cluster development and planned unit development.

(a) The purpose of providing for the clustering of development and the resultant open space is to offer recreation at or near each home, to improve the appearance of the area through preservation of green space, to counter the undesirable effects of urban congestion and monotony, and to encourage group participation in community activities by all ages on a local block or neighborhood basis. This assists in building community and personal stability and security. Local parks, recreation areas, and other spaces in a planned neighborhood pattern are intended to conserve areas of natural beauty, encourage cooperative relationships between neighbors, and help promote the public health, safety, and general welfare.

(b) The purpose of this section is to provide an alternative subdivision procedure for single family use; or, governed by the minimum lot size requirements of this Subdivision Ordinance (see Section 9-2052). This is to be accomplished by permitting the density of dwelling units contemplated by the minimum lot size requirements to be maintained on an overall basis when applied to specific tracts of land, and thereby provide for desirable and proper open space. Cluster subdivisions shall follow requirements for planned unit developments in the Valdese Zoning Ordinance (see Sections 9-3111 and 9-3112). (Ord. of 11/3/08)

Section 9-2054 Hillside subdivisions.

Hillside Subdivisions shall comply with the following standards. (Ord. of 11/3/08)

Section 9-2054.01 Street design.

Section 9-2054.01.01 Widths.

The public or private street shall have a right-of-way of not less than fifty (50) feet except that a right-of-way of forty (40) feet will be permitted if a reduced width is essentially unavoidable and is approved by the Planning Board. (Ord. of 11/3/08)

Section 9-2054.01.02 Cul-de-sacs.

Permanent dead end streets are strongly discouraged except when required by extreme topography, water, or other natural features. The required turnaround on a dead-end private street in a hillside subdivision shall have a roadway diameter of not less than fifty (50) feet and a right-of-way diameter of not less than sixty (60) feet. If the street length does not exceed three hundred (300) feet and if construction difficulties will not permit a turnaround, the use of a "Y" or a "T" or other turning space of a design such as will allow a vehicle with a wheel base of at least twenty (20) feet to complete a turning movement with a maximum of one backing movement, may be permitted if approved by the Planning Board. (Ord. of 11/3/08)

Section 9-2054.01.03 Grading.

Grading will not be required for the full right-of-way in hillside subdivisions if the Planning Board determines that full grading will prevent the convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill. However, where slope extends beyond the right-of-way, slope easements shall be added where needed. Easement shall extend ten (10) feet beyond top of cut where cut exceeds fifteen (15) feet vertically. (Ord. of 11/3/08)

Section 9-2054.01.04 Street grades.

In hillside land subdivisions, maximum street grades permitted shall be fourteen percent (14%) unless the Planning Board determines that a steeper grade is essentially unavoidable and would not create excessive danger. (Ord. of 11/3/08)

Section 9-2054.02 Street improvements for hillside subdivisions.**Section 9-2054.02.01 Pavement.**

Pavement widths shall not be less than specified in Section 9-2051.01 and 9-2050.04 except where the average cross slope is sixteen percent (16%) or greater, pavement widths may be reduced with Planning Board approval as follows:

- (a) Where the average cross slope is between sixteen percent (16%) and thirty-three percent (33%), minimum pavement width may be reduced to eighteen (18) feet.
- (b) Where the average cross slope is greater than thirty-three percent (33%), no street shall be constructed.
- (c) Where pavement width is reduced, on-street parking shall not be permitted. (Ord. of 11/3/08)

Section 9-2054.03 Hillside lots.

All lots in a hillside subdivision shall meet the requirements of the zoning designation of the property.

(Ord. of 11/3/08)

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This chapter regulates the uses of buildings, structures, and land for trade, industry, commerce, residence, recreation, public activities or other purposes; the size of yards, and other open spaces; the location, height, bulk, number of stories and size of buildings and other structures; the density and distribution of population; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing penalties for violations; providing for a Board of Adjustment and Planning Board and defining the duties and powers of said Boards; repealing conflicting ordinances; and for other purposes. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3002 Authority.

The Town Council enacts this chapter pursuant to the authority granted by the General Statutes of North Carolina. (Ord. of 1/10/05; Ord. of 12/6/10)

State law reference: Planning and regulation of development, see G.S. Chapter 160A, Article 19, Part 3

Section 9-3003 Short title.

This chapter should be known as the "Zoning Ordinance" or "Watershed Ordinance," and the map identified by the title "Official Zoning Map, Valdese, NC," may be known as the "Zoning Map" or the "Watershed Map." (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3004 Jurisdiction.

The provisions of this chapter shall be applicable to all property within the corporate limits of the town. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3005 Official zoning map.

The districts established in Article C of this chapter as shown on the official zoning map, together with all explanatory matter thereon, are hereby adopted as part of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3006 Identification of official zoning map.

The official zoning map shall be identified by the signature of the Mayor attested by the Town Clerk, and bearing the seal of the town. Said Map shall be retained in the office of the Planning Department of the town. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3007 through section 9-3010 reserved.

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Section 9-3011 Interpretation and definition of terms and words.

For the purpose of interpreting this chapter, certain words or terms are herein defined. Unless otherwise stated, the following words shall have the meaning herein defined.

- (a) Words used in the present tense include the future tense.
- (b) Words in the singular include the plural; words in the plural include the singular.
- (c) The word "person" includes a firm, association, organization, corporation, trust, and company as well as an individual.
- (d) The word "lot" includes the word "structure."
- (e) The word "building" includes the word "structure."
- (f) The word "shall" is mandatory, not directory.
- (g) The words "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- (h) The word "Zoning Enforcement Officer" includes the word "Watershed Administrator." (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3012 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Accessory dwelling: See Dwelling, Accessory.

Accessory use, accessory structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adult establishment: Any structure or use of land which meets the definitions as outlined in G.S. 14-202.10. Licensed masseurs (for example, health massage/body work therapists) are excluded.

Agricultural industry: Commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial plant production (not retail nurseries), commercial fish or poultry hatcheries, and other similar activities.

Alley: A publicly dedicated and maintained right-of-way twenty feet (20) or less in width that provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Animal hospital: See Veterinary hospital or clinic.

Apartment: A room or suite of one or more rooms in a multiple structure intended for use as a residence by a single family.

Artisan food and beverage producer: An establishment that engages in on-site commercial production of food and/or beverage products to a final form employing batch-processing or hand-crafting using traditional methods, and distributes to customers on-site via product tasting and direct sales and/or off-site to retailers and wholesalers. Typical products may include coffee roasters, chocolatiers, confectioneries, cideries, wineries, microbreweries, brewpubs, and craft distilleries.

Automotive body repair: An establishment where the following services may be rendered on a motor vehicle; body repair, straightening of automotive body parts, painting, welding, storage of automobiles not in operating condition.

Automotive repair: A building or area used for the temporary storage, care, and repair of motor vehicles including both minor and major mechanical overhauling.

Automotive service station: A building used for the sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies, including installation and minor services customarily incidental thereto. Fuel pumps shall be located at least twenty (20) feet from any property or right-of-way line. Facilities for washing and for chassis and gear lubrication of vehicles are permitted if enclosed in a building. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and bodywork are conducted.

Automotive wrecking yard: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot of four or more motor vehicles, which, for a period exceeding thirty (30) days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute an automobile wrecking yard.

Bank: Financial institution engaged in deposit banking and closely related functions such as the extension of credit by means of loans and investments, and fiduciary activities.

Bar: A commercial enterprise devoted primarily to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. Bars include taverns, pubs, night clubs, and similar drinking establishments serving alcoholic beverages but do not include taprooms/tasting rooms in microbreweries and brewpubs.

Basement: That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement shall be termed a story if the vertical distance from the average adjoining grade to the ceiling is more than five feet (5).

Bed and breakfast inn: A house, or portion thereof, where short-term lodging rooms and meals are provided for compensation. The operator of the inn shall live on the premises or on adjacent premises. (See Section 9-3060.06)

Beer: Includes "malt beverage" as defined by G.S. 18B-101(9).

Best management practices (BMP): A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Boardinghouse: A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging is provided for three or more persons, but not to exceed eight persons. The owner of the boarding house shall reside on the premises.

Bona fide farm: See Farm, bona fide.

Breezeway: A covered passageway connecting a single family residence and an accessory structure.

Brewery: An establishment for the manufacture of beer.

Brewpub: A restaurant with facilities for the manufacture of beer onsite for consumption and retail sale at the restaurant. Where allowed by law, brewpubs may often sell beer "to go" and/or distribute to off-site accounts.

Buffer: A buffer shall consist of a planting strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than ten (10) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart and five (5) feet or more in height after one (1) growing season, and said strip shall be planted and maintained in a healthy, growing condition by the property owner. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining lot.

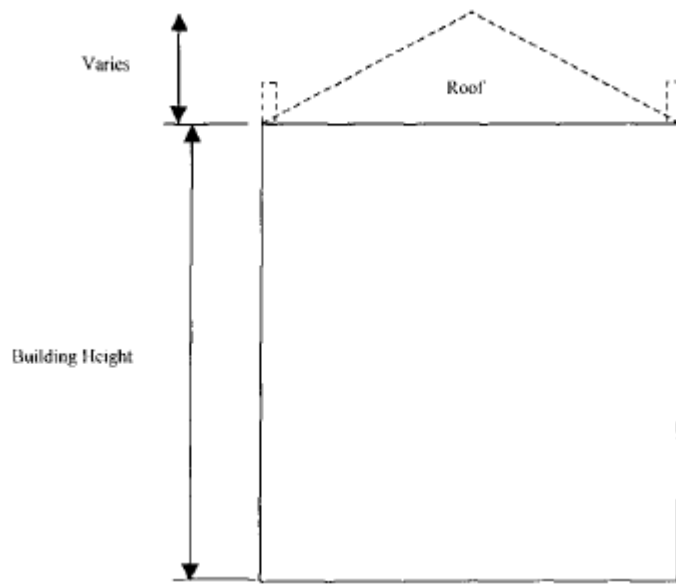
Buffer (watershed): An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and from the bank of each side of free-flowing streams, rivers, branches, etc.

Building: An independent enclosed structure, anchored to a permanent foundation and having exterior or party walls and a roof designed for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Building, accessory: A building subordinate to the main building on a lot and used for purposes customarily incidental to the main or principal building, and located on the same lot therewith.

Building, coverage: See Lot coverage.

Building, height: The vertical distance measured from the average elevation of the finished lot grade at the front building line to the highest point of the roof beams adjacent to the front of the wall in the case of a flat roof; to the average height of the gables in the case of a pitched roof; and to the deck line in the case of a mansard roof.



Building, principal: A building or structure in which the primary use of the lot on which the building is located is conducted. A structure, or where the context so indicates, a group of structures in or on which is conducted the principal use of the lot on which such structure is located.

Building, setback: A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five feet (5) of any overhang, uncovered porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building.

Built-upon area: That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel, recreation facilities, etc., excluding wooden slatted decks and the water area of a swimming pool.

Business, general: Commercial establishments that, in addition to serving day-to-day commercial needs of a community, also supply the more durable and permanent needs of a whole community, including supermarkets, department stores, discount stores, variety stores, hardware and garden supply stores, apparel and footwear stores, florists, gift shops, jewelry stores, book and stationery stores, specialty shops, sporting goods stores, furniture and home furnishing stores, automotive supply stores, and appliance stores.

Business, office-type: Quasi-commercial uses that generally accommodate occupations such as administrative, executive, legal, accounting, writing, clerical, stenographic, and drafting occupations, and including offices of a charitable, philanthropic, religious, or educational nature.

Car wash, detail shop: An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles; a building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Carport: An accessory structure that provides shelter for vehicles or boats, and is open on all sides.

Cellar: See Basement.

Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including land on which columbariums, mausoleums or similar structures are located.

Certificate of occupancy: Permit that is issued by the Town after the erection or structural alteration of a building, or part of a building; the permit allows the owner, tenant, or occupant thereof to occupy the structure and shows that the structure has been completed in conformity with the provisions of this chapter.

Child care institution: An institutional facility housing orphaned, abandoned, dependent, abused, or neglected children.

Church: A structure in which persons regularly assemble for religious worship and which is maintained by a religious body organized to sustain public worship.

Clinic: An organization of professional specialists such as physicians or dentists, who have their offices in a common building. A clinic shall include laboratory facilities in conjunction with normal clinic services.

Club: An establishment operated by a corporation or association of persons for social, literary, political, educational, fraternal, or charitable purposes, but which is not operated for profit.

Cluster development: The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single- family residential and multi-family developments. For the purpose of this chapter, planned unit development and mixed use development are considered as cluster development.

Community center: A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve the community at large.

Comprehensive plan: A plan, or any portion thereof, adopted by the planning board and Town Council, establishing goals, objectives, and policies designed to manage the quantity, type, cost, location, timing, and quality of development and redevelopment in the town community.

Conditional use permit: A permit, granted by the Town Council after the Council holds a public hearing, which authorizes a use which would not generally be appropriate throughout a particular zoning district, but which, if controlled as to number, size, location, or relation to the neighborhood, would promote the public health, safety, and general welfare.

Condominium: A single family dwelling unit constructed in a series or group of attached units where each dwelling unit is to be deeded and/or separately owned from other units, and where all land is owned in common by owners of all the dwelling units collectively. (Also See Dwelling)

Convenience store: A retail establishment where beverages, packaged food, tobacco products or similar convenient goods for customers are sold, and where, in addition gasoline and/or diesel fuel is supplied and dispensed, provided that all gasoline pumps shall be located at twenty (20) feet from any property or right-of-way line.

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Craft Distillery: An establishment where spirituous liquor is produced on-site, and which shall include a tasting room in which guest or customers may sample the products. The building in which the craft distillery operates shall not exceed four thousand (4,000) square feet.

Crematory or crematorium: A properly installed, certified apparatus intended for use in the act of cremation. (See Section 9-3060.02)

Critical area: The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as the area one-half mile upstream and draining to a water supply reservoir or water intake located in a stream or river; or to the ridge line of the watershed, whichever comes first.

Day care home: A private residence where care, protection, and supervision are provided on a regular schedule, to no more than five (5) preschoolers and three (3) school age children at one time, including children of the adult provider.

Day care center: A building or structure where care, protection and supervision is provided on a regular schedule to at least nine (9) or more children, including the children of the adult provider. Day care centers shall not be located within a dwelling unit.

Development: The use or occupancy of any land or structure, or the construction, erection, alteration, or moving of any structure; any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Distillery: An establishment where spirituous liquor is produced on-site, and which may include a tasting room in which guest or customers may sample the product.

Domestic pets: Animals that are customarily kept for company, pleasure, or enjoyment within the home or yard such as domestic dogs, domestic cats, domestic tropical birds, domestic rodents, domestic rabbits, and domestic fish. (See Section 9-3061(c), Animal Keeping)

Driveway: A vehicular way, other than a street or alley that provides vehicular access from a street to or through off-street parking and/or loading areas.

Duplex: See Dwelling, two-family.

Dwelling, accessory: A dwelling unit which is located on the same lot as a detached or attached single family house, has a first floor area no greater than 650 square feet, is owned by the owner of the principal dwelling unit but occupied by another. If the principal dwelling is a group home, use of an accessory dwelling shall not increase the number of residents otherwise permitted in a single home. (See Section 9-3060.01)

Dwelling, multiple or multi-family: A building or portion thereof, containing three (3) or more dwelling units, designed for occupancy by three (3) or more families living independently of each other.

Dwelling, single-family: A building arranged or designed to be occupied by one family, the structure having only one dwelling unit.

Dwelling, two-family or duplex: A building containing two (2) dwelling units designed exclusively for occupancy by two (2) families independent of each other, such as a duplex building unit.

Dwelling unit: A room or group of rooms within a structure forming a single, independently habitable unit containing independent kitchen, sanitary facilities, sleeping facilities, and provided such structure complies with the town minimum housing code.

Easement: A grant by a property owner to the use of land by the public, a corporation, or persons for specific purposes such as the construction of utilities, drainage ways and roadways.

Electronic gaming operations. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to, computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or predetermined odds. This includes, but is not limited to, internet sweepstakes or video sweepstakes. This does not include any lottery approved by the State of North Carolina.

Essential services: Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam or water, the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not essential services, provided no transmitter or antenna tower exceeds 180 feet in height. Essential services are divided into three classes:

Class 1 Transmission lines (above and below ground) including electrical, natural gas, and water/wastewater distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 square feet);

Class 2 Elevated water storage tanks; package treatment plants; telephone switching facilities (over 200 square feet), substations, or other similar facilities used in connection with telephone, electric, steam, and water facilities; raw water treatment facilities.

Class 3 Generation, production, or treatment facilities such as power plants and sewage treatment plants.

Existing development: Those projects that are built or those projects that at a minimum have established a vested right under state zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or

(2) Having an outstanding valid building permit as authorized by the G.S. 153A-344.1 and 160A-385.1; or

(3) Having an approved site specific or phased development plan as authorized by the G.S. 153A-344.1 and 160A-385.1.

Family: An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six (6) persons, one (1) or more of whom is not related by blood, marriage, or adoption to the others.

Family care home: A dwelling with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident disabled persons. Disabled person means a person with a temporary or

permanent physical, emotional, or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)b.

Farm, bona fide: Any tract of land containing at least three acres which is used for dairying or for the raising of agricultural products, forest products, livestock or poultry, and which may include facilities for the sale of such products from the premises where produced. The definition of “farm” and “bona fide farm” shall not include agricultural industries.

Farmers market: The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Financial institution: A use or structure where financial, pecuniary, fiscal, or monetary services are made available to the public, including but not limited to depository institutions (that is, banks, credit unions, savings and loans, etc.), non-depository credit institutions (that is, credit agencies, loan brokers, etc.), holding companies (but not predominantly operating companies), other investment companies, brokers and dealers in securities and commodities contracts, and security and commodity exchanges.

Flag lot: Lots or parcels that are approved by the town which have an access corridor providing a minimum of thirty-five (35) feet of frontage on an approved public street, with the bulk of the lot or parcel being otherwise landlocked by other property. Such access shall have a minimum width of thirty-five (35) feet. The area of the access corridor shall be excluded in computing the lot area and width, and the length of said strip shall not exceed one hundred (100) feet.

Flea market: An occasional or periodic sales activity held within a structure or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Floodplain: That area within the one-in-one hundred (100 year) regional flood contour elevation subject to periodic flooding as designated by the Zoning Enforcement Officer based upon United States Department of Housing and Urban Development FIA flood hazard boundary maps.

Floor area, gross: The sum of enclosed areas on all floors of a building or buildings measured from the outside faces of exterior walls, including halls, lobbies, arcade, stairways, elevator shafts, enclosed porches and balconies, and any below-grade floor areas used for access and storage. Not countable as floor area are open terraces, open patios, open atriums, open balconies, open carport garages, and breezeways.

Floor area ratio: Determined by dividing the gross floor area of all buildings on a lot by the area of that lot.

Garage: An enclosed accessory structure that provides shelter for vehicles or boats.

Garage, public: A building designed and used for the storage of automobiles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

Gated subdivision: A subdivision in which access to the gated subdivision is restricted by gates or other devices.

Grade: An average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

Government building: A building, use, or facility serving as a governmental agency office, police station, fire station, library, post office, or similar facility, but not including a vehicle storage yard, correctional facility, sanitary landfill, solid waste transfer or disposal facility, wastewater treatment facility, educational or health institution, university, group home, or housing for persons who are participating in work release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

Hazardous material: Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Hillside subdivision: Land proposed to be subdivided which has a slope of sixteen percent (16%) or greater. That is, an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.

Home occupation: An occupation, service, profession or enterprise carried on within a dwelling unit or accessory structure by a resident. Hobbies shall not be subject to the requirements of this section. (See Section 9-3045)

Hospice and Palliative Care Facility: A freestanding licensed facility(s) which provides palliative and supportive medical and other health services to meet the holistic needs of terminally ill patients and their families in an inpatient or group residential setting.

Hospital: An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Hotel: A facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurants, meeting rooms, and recreational facilities.

Industrial development: Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product.

Inoperable vehicle: Any wrecked or non-operable automobile, truck, or other vehicle which does not bear a current license plate.

Junk yard: The use of more than four hundred (400) square feet of any lot for the outdoor storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of inoperable motor vehicles and dismantling of such vehicles or machinery.

Kennel: Any premises wherein any person(s) engages in the business of boarding, breeding, buying, letting for hire, training for a fee, grooming or selling of domestic pets.

Landfill: A Class 3 Essential Services facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Chapter 130A, Article 9. For the purpose of this chapter, this term does not include composting facilities.

Large brewery: A brewery with an annual beer production over fifteen thousand (15,000) barrels and may contain a tap room/tasting room.

Loading, off-street: Space located outside of any street right-of-way or easement and designed to accommodate the temporary parking of vehicles used for bulk pickups and deliveries.

Lot: A parcel of land occupied or capable of being occupied by a main building or group of buildings and accessory buildings, together with such yards, open spaces, and lot areas as are required by this chapter, and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds.

Lot, corner: A lot abutting on and at the intersection of two or more streets. See Article D.

Lot coverage: The percentage of a lot which may be covered with buildings or structures (excluding walks, drives, and other similar uses) and recreational facilities which are accessory to a permitted use (such as swimming pools). Properties within the critical or protected areas as defined by the Water Supply Watershed Protection Act shall include walks, drives, and all other impervious and graveled surfaces in the total lot coverage.

Lot, double frontage or through lot: A lot having its front and rear yards each abutting on a street. See Article D.

Lot depth: The average horizontal distance between the front and rear lot lines.

Lot, landlocked: A lot which does not abut a public street, or which otherwise does not meet the minimum street frontage requirements of the zoning district in which is located.

Lot, frontage: The linear distance by which a lot abuts an approved public street. See Article D.

Lot, interior: A lot in which only one of its sides abuts a street. See Article D.

Lot line: A property line dividing one lot from another or from a street or other right-of-way. See Article D.

Lot of record: A lot which is described by reference to a recorded plat, or described by metes and bounds or similar method, the description of which has been so recorded by the Burke County Register of Deeds, and which has been given a separate tax identification number by the Burke County Tax mapping Department.

Lot, substandard: A lot that has less than the required minimum area or size as established by the zone in which it is located, and provided that such lot was of record as a legally created lot on the effective date of this chapter.

Lot width: The straight linear distance between the side lot lines, measured at the two points where the minimum building line, or setback line, intersects the side lot lines.

Major watershed variance: A variance from the minimum statewide water supply watershed protection criteria that results in any one or more of the following:

- (1) Any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater system;
- (2) The relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- (3) The relaxation, by a factor greater than five (5) percent, of any buffer or built-upon area requirement under the high density option.

Manufactured home: A structure designed for living or sleeping purposes, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Class A manufactured home (multi-section/double- wide). A manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a multi-section unit.

Class B manufactured home (single-wide). Class B single-wide manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a single- wide unit.

Manufactured home park: Any existing lot or parcel on which two (2) or more manufactured homes are used, leased or rented or intended to be used, leased or rented for occupancy. Existing manufactured home parks shall comply with Article G of this chapter.

Marina: A facility for the storing, servicing, fueling, berthing, and launching and securing of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

Massage therapy: The systematic and scientific manipulation and treatment of the soft tissues of the body for therapeutic or remedial purposes, specifically for improving muscle tone and circulation and promoting circulation and promoting health and physical well-being. The term includes but is not limited to the manipulation of muscular structure of the body, by use of pressure, friction, stroking, percussion, kneading, vibration by manual or mechanical means, range of motion and nonspecific stretching. Massage therapy does not include diagnosis, the treatment of illness or disease, or any service or procedure for which a license to practice medicine, chiropractic, physical therapy, or podiatry is required by law.

Microbrewery: A brewery that produces less than fifteen thousand (15,000) barrels of beer per year with a portion of its beer sold to the public.

Mini-warehouse: A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractors supplies.

Minor watershed variance: A variance that does not qualify as a major variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor up to five (5) percent of any buffer, density, or built-upon requirements under the high density option; or that results in a relaxation, by a factor up to ten (10) percent, of any management requirement under the low density option.

Mixed use: Commercial, office-institutional, and/or residential uses within the same building where each use is independent of the other use(s).

Modular home: A dwelling unit constructed in accordance with the standards set forth in the North Carolina State Building Code (NCSBC) and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that the modular home meets the NCSBC) or may consist of a series of panels or room sections transported on a truck and erected or joined together on the site.

Motel: A building or group of detached or connected buildings designed or used primarily for providing sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motor lodge shall be deemed a motel.

Multi-family building: See Dwelling, multiple or multi- family.

Neighborhood recreation: Public or private neighborhood, tennis, or other courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in the neighborhood that the facility is located. "Neighborhood Recreation" structures shall include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

Nonconforming building: Any building that does not meet the limitations on building size and/or location on a lot for the district in which such building is located, and for the use to which such building is being put.

Nonconforming lot of record: A lot described by a plat or deed that was recorded prior to and lawfully existed prior to the adoption of this chapter, but which does not meet the limitations on size, depth, width, street frontage, or other development requirements of the statewide watershed protection rules for the district in which such lot is located.

Nonconforming use: A lawful use of land that does not comply with the use regulation for its zoning district as defined by this chapter.

Non-residential development: All development other than residential development, agriculture and silviculture.

Nursing home: A health care facility licensed by the state to provide long-term medical services according to the directives of a patient's physician and standards of quality set by the state and the facility. Nursing homes in North Carolina are staffed by professional personnel under the direction of a licensed nursing home administrator; they deliver a variety of medical and social services to their patients.

Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open space: Any front, side, or rear yards, courts, or usable open space provided around a building in order to meet the requirements of this chapter.

Open storage: The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

Outdoor seasonal sales: Outdoor seasonal sales are temporary uses, which include but are not limited to outdoor Christmas tree sales, pumpkin sales, plant sales, and similar uses. Outdoor seasonal sales are not intended to include the sale of manufactured items such as furniture, bedding, automobile parts, or household goods. (See Special Use Requirements)

Park: Any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking lot: Any designated area designed for temporary accommodation of motor vehicles of the motoring public in normal operating condition, for a fee or as a service.

Parking space: A storage space of not less than nine feet by eighteen feet (9 × 18) for one automobile, plus the necessary access space. It shall always be located outside the designated street right-of-way.

Pet: See Domestic pets.

Planned unit development (PUD): A form of development characterized by a unified site design for a number of buildings. The design is intended to provide for common open space and for a mix of building types and uses. It permits the planning of a project and a calculation of densities over the entire development rather than on an individual lot-by-lot basis. The site plan must include two (2) or more principal buildings. Such development shall be based on a plan, that allows for flexibility of design most available under normal district requirements.

Planning jurisdiction: The area within which the town is authorized to plan and regulate development pursuant to the authority granted in G.S. Chapter 160A, Article 19.

Protected area (PA): Area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five (5) miles upstream of and draining to a water supply reservoir, or to the ridge line of the watershed, whichever comes first; or within ten miles of and draining to a water intake in a stream or river, or to the ridge line of the watershed, whichever comes first.

Recycling center: A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling collection point: A drop-off point for temporary storage of recoverable resources. No processing of such items at the recycling collection point is allowed. Such facilities should generally be located in a shopping center parking lot or in other public/quasi- public areas, such as churches and schools.

Recycling plant: A facility that is not a junk yard and in which recoverable resources, such paper, glass, and metal products, are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for consumption.

Religious institution: A church, synagogue, temple, mosque, or other place of religious worship, including any accessory use or structure, such as a school, day care center, or dwelling, located on the same lot.

Residential care facility: A building or facility used primarily to provide residential, social and personal care for children, the aged or others who suffer some limit on the ability for self-care, but where medical care is not a major service, such as adult daycare facilities, homes for the aged, rest homes and other like uses.

Residential development: Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc.

Restaurant: An establishment in which food or beverages are cooked or prepared and offered for sale and where consumption is permitted on the premises whether or not entertainment is offered, and including establishments commonly referred to as cafes, grilles, taverns, clubs, private clubs, drive-ins, and fast food establishments.

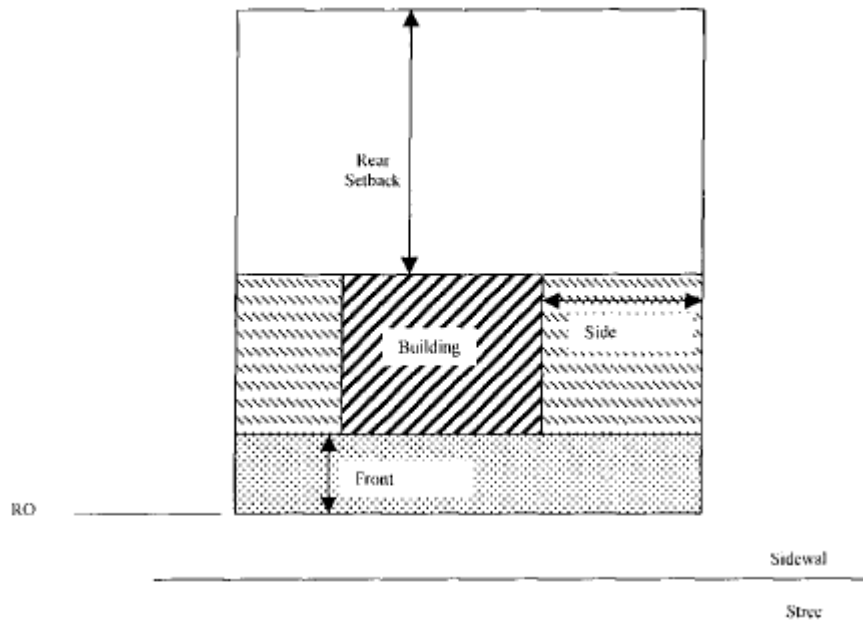
Satellite dish antenna: An antenna, three (3) feet or more in diameter, designed to receive television, radio, and other communication signals primarily from orbiting satellites.

Schools: A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, middle high schools, and high schools.

Service station: See Automotive service station.

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Setback: A line establishing the minimum allowable distance between the nearest portion of any or building, excluding the outermost five (5) feet of any overhang, uncovered porches, steps, gutters, and similar fixtures, and the related front, rear, or side property or right-of-way line, whichever is closest to the building. Sign setbacks shall apply to the entire sign including any overhang or projection.



Sign: Any object, device, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. "Signs" do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

Single-family home: See Dwelling, single-family.

Single family residential: Any development where:

- (1) No building contains more than one dwelling unit;
- (2) Every dwelling unit is on a separate lot; and
- (3) Where no lot contains more than one (1) dwelling unit.

Site plan: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features for a specific parcel of land.

Story: The space within a building, other than a cellar, included between the surface of any floor and the surface of the ceiling next above. In computing the height of a building, the height of a basement or cellar shall not be included where more than one-half of the height of such basement or cellar is below the average adjoining grade.

Street (public road, lane, way, terrace, drive): A dedicated and accepted public right-of-way used, or intended to be used, for passage or travel by motor vehicles which affords the principal means of access to abutting properties.

Street, private: Any right-of-way or area set aside to provide vehicular access that has not been accepted for maintenance or intended to be accepted for maintenance by the town or the state and which is not maintained by the town or the state.

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, including buildings, sheds, carports, swimming pools, shelters, decks, patios, fences, business signs, and billboards and similar structures.

Structural alterations: Any change, except for repair or replacement, in the supporting members of a structure, such as, but not limited to, bearing walls, columns, beams, or girders.

Taproom/tasting room: A room ancillary to an artisan food and beverage producer that is used for the sampling by the public of products produced on site.

Temporary portable building: A building intended for non-residential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.

Temporary uses and structures, including seasonal markets: See Outdoor seasonal sales.

Ten-acre exempt development: A division of land that meets the statutory exemption from subdivision regulations as set forth in G.S. 47-30, whereby all tracts are greater than ten (10) acres and where no street right-of-way dedication is involved. A ten-acre development must abut a public street and shall not exceed five building parcels.

Two-family dwelling: See Dwelling, two-family.

Truck terminal: A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks, are parked or stored.

Variance, zoning. Permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he could not otherwise legally do. Subject to other provisions of this chapter and General Statutes, the Board of Adjustment may permit a variance from certain provisions of this chapter upon making the findings set forth in Article XI, of this chapter.

Veterinary hospital or clinic: A use or structure intended or used primarily for the testing and treatment of the physical disorders of animals; not principally used for the overnight boarding or grooming of well animals; not permitting outdoor cages, pens or runs for the confinement of animals unless expressly permitted in the district; and not used for the training of animals. The operator shall be licensed by and under the control of the North Carolina State Veterinary Medical Board.

Water dependent structure: Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed: The entire land area contributing surface drainage to a specific point (for example, the water supply intake.)

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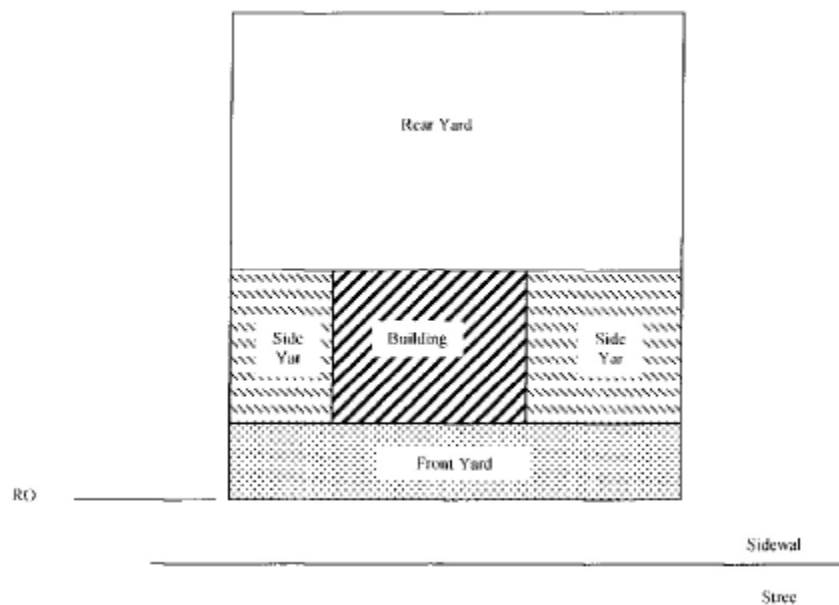
Watershed Administrator: An official designated by the town responsible for administration and enforcement of this Article. This term shall also include the term “Zoning Enforcement Officer.”

Watershed variance: A permission to develop or use property granted by the Board of Adjustment or Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this chapter.

Winery: A building or property at which wine is produced, and which may include a tasting room.

Yard: A space on the same lot with a principal building, open, unoccupied, and unobstructed by building or structure from ground to sky except where encroachment and accessory buildings are expressly permitted.

Yard, front: An open space on the same lot between the principal building facade and the closer of the front street right-of-way line or property line extending the full width of the lot.



Yard, rear: An open space between the rear line of the principal building and the rear line of the lot and extending the full width of the lot.

Yard, side: An open, unoccupied space on the same lot with a principal building between the side line of the building and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning Enforcement Officer: The town official responsible for enforcement and administration of this chapter. This term shall also include the terms “Watershed Administrator” and “Zoning Administrator.”

Zoning permit: A permit issued by the Zoning Administrator indicating compliance with the requirements of this chapter. This term shall also include the term “watershed protection permit.” (Ord. of 1/10/05; Ord. of 11/5/07; Ord. of 12/6/10; Ord. of 12/3/12; Ord. of 12/1/14; Ord. of 6/29/15; Ord. of 3/3/16; Ord. of 4/4/16; as amended by Ord. of / /)

Section 9-3013 through section 9-3020 reserved.

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ARTICLE C
Establishment of Districts and General Rules

Section 9-3021 Use districts.

The town is hereby divided into eight (8) zoning districts designated as follows:

- R-12 Residential District
- R-12A Residential District
- R-8 Residential District
- O-I Office-Institutional District
- B-1 Central Business District
- B-2 General Business District
- M-1 General Manufacturing District
- FP Floodplain Overlay District

(Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3022 Interpretation of the zoning map.

(a) Where, due to the scale, lack of detail or illegibility of the zoning map, there is an uncertainty, contradiction or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall make an interpretation of said map upon request of any person. Any person aggrieved by such interpretation may appeal such interpretation to the Zoning Board of Adjustment. The Zoning Administrator and the Zoning Board of Adjustment, in interpreting the zoning map or deciding any appeal, shall apply the following standards:

(b) Boundary lines:

(1) Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center lines of alleys, streets, rights-of-way or water courses, unless such boundary lines are fixed by dimensions shown on the zoning map.

(2) Where zoning districts boundary lines are so indicated that they approximately follow lot lines, such lot lines shall be construed to be such boundary lines.

(3) Where a zoning district boundary line divides a lot, the location of any such zoning district boundary line, unless indicated by dimensions shown on the zoning map, shall be determined by the use of the map scale shown thereon. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3023 through section 9-3030 reserved.

ARTICLE D
General Provisions

Section 9-3031 Application.

(a) Use. No building or land shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this chapter or amendments thereto, for the district in which it is located.

(b) Height and density. No building shall hereafter be erected or altered so as to exceed the height limit, or to exceed the density regulations of this chapter for the district in which it is located.

(c) Lot size. No lot shall be reduced in size so that the lot width or depth, front, side or rear yards, lot area per family or other requirements of this chapter are not maintained, except in cases of street widening.

(d) Yard use limitations. No part of a yard or other open space required around any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.

(e) One principal building on any lot. Every building hereafter erected, moved, or structurally altered shall be located on a lot of record and in no case shall there be more than one (1) principal building and its customary accessory buildings on any lot, except in the case of a specially designed complex of institutional, residential, industrial, or commercial buildings in an appropriate zoning district, as permitted by Article I of this chapter.

(f) Building lot must abut public street. No building shall be constructed, erected upon, or moved to any lot that does not abut by thirty-five (35) feet, a publicly dedicated or maintained street or on a private street, that meets the standards of the North Carolina Department of Transportation Street standards as to maintenance, disclosure and construction except as provided in Section 9-3040, Provisions for Landlocked Lots, Section 9-3047, Provisions for Ten-Acre Exempt Developments, and Section 9-4048, Provisions for Gated Subdivisions.

(g) Necessary repairs permitted. Nothing in this chapter shall prevent the strengthening or restoration to a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the Building Inspector, the Fire Chief, or any other duly authorized town officials.

(h) Water and sewer requirements. The lot sizes for the various districts in Article E of this chapter were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities may require larger lot areas or, in some instances, not permit development as intended. (Ord. of 1/10/05; Ord. of 12/6/10; as amended by Ord. of / /)

Section 9-3032 Nonconforming uses.

After the effective date of this chapter, existing structures, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located (if they existed on the adoption date of this chapter), shall be considered as nonconforming. Nonconforming structures or uses (as defined in Article B of this chapter) may be continued

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provided they conform to the following provisions set forth in Sections 9-3032.1 and 9-3032.2. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3032.1 Continuing nonconforming uses of land.

(a) Extension of use. The enlargement or extension of nonconforming uses of land is prohibited.

(b) Change of use. Any nonconforming uses of land may be changed to a conforming use or, with the approval of the Town Council, to any use more in character with the uses permitted in the district in question.

(c) Cessation of use. When a non-conforming use of land is discontinued for a consecutive period of one hundred eighty (180) days, the property involved may thereafter be used only for conforming purposes. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3032.2 Continuing the use of nonconforming buildings.

(a) Extension or enlargement. Nonconforming buildings and nonconforming uses may not be enlarged.

(b) Change of use. Except as otherwise provided, the lawful use of a building existing at the time of the adoption of this chapter may be continued, even though such use does not conform to the provisions of this chapter. Furthermore, such building may be structurally altered and any nonconforming use therein changed subject to the following regulations:

(1) The order of classification of uses from highest to lowest for the purpose of this section shall be as follows: residential district uses, business district uses, industrial district uses, as permitted by this chapter.

(2) A nonconforming use may be changed to a use of higher classification but not to a use of lower classification. A nonconforming use may not be changed to another use of the same classification unless the new use shall be deemed by the Town Council, after public notice and hearing, to be less harmful to the surrounding neighborhood, than the existing nonconforming use.

(3) A nonconforming use may be extended throughout any portion of a completed building that, when the ~~sue-use~~ was made nonconforming by this Article or subsequent amendments, was designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.

(4) A conditional use permit has been issued by the Town Council for the proposed change or alteration.

(c) Cessation of use. If a nonconforming use is discontinued for a consecutive period of one hundred eighty (180) days, any future use of the buildings and premises shall be in conformity with the provisions of this chapter.

(d) Repairs, maintenance, damage, or destruction.

(1) If a structure located on a lot where a non- conforming situation exists is damaged to an extent that the costs of repair or replacement would exceed fifty (50) percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with the regulations of the district in which it is located. Any repairs or replacement of a non-conforming situation, including residential structures, must

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be started (obtain building permit) within one hundred eighty (180) days after the initial damage.

(e) Manufactured homes. Regarding manufactured homes, refer to Article G. (Ord. of 1/10/05; Ord. of 1/7/08; Ord. of 12/6/10)

Section 9-3033 Interpretation of district regulations.

(a) Uses by right. Uses not designated as permitted by right or subject to additional conditions shall be prohibited. Conditional uses are permitted according to the additional regulations imposed. These conditional uses may be approved only by the Town Council. Additional uses when in character with the district may be added to the chapter by amendment.

(b) Minimum regulations. Regulations set forth by this chapter shall be minimum regulations. If the district requirements set forth in this section are at a variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern.

(c) Land covenants. Unless restrictions established by covenants for the land are prohibited by or are contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3034 Zoning of annexed areas.

Any areas annexed into the town, upon annexation, shall be rezoned to an appropriate zoning district, upon recommendation by the Planning Board and approval by the Town Council following notifications and public hearings as required by the General Statutes. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3035 Lot of record.

(a) Every lot to be built upon shall abut, by at least thirty-five (35) feet, a public street or other public way, and no dwelling shall be placed or built upon a lot that does not abut upon a public street or other public way by the same distance except as provided in Section 9-3040, Provisions for Landlocked Lots, Section 9-3047 Provisions for Ten-Acre Exempt Development, and Section 9-3048, Provisions for Gated Subdivisions.

(Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 12/6/10; as amended by Ord. of / /)

Section 9-3036 Front yard setbacks for dwellings.

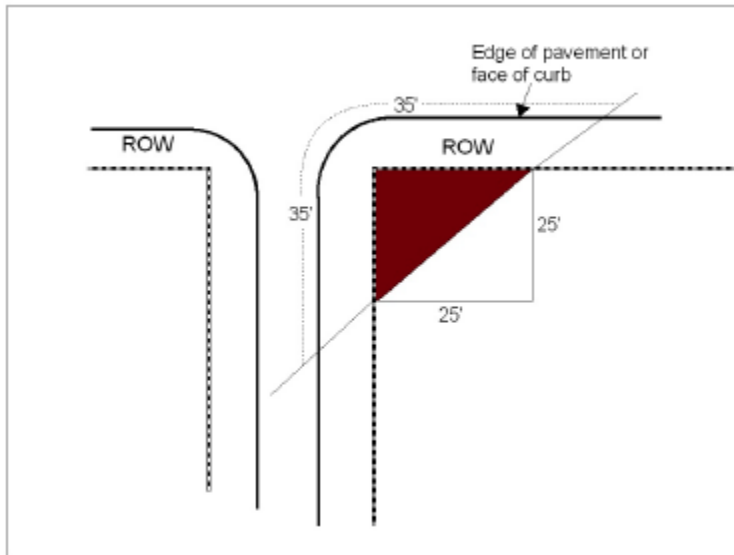
The front yard setback requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within one hundred (100) feet on either side of the proposed dwelling and on the same side of the same block and use district as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3037 Height limitations.

The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments; water towers; chimneys; smokestacks; conveyors; flag poles; masts; serials and similar structures except as otherwise noted in the vicinity of airports. Telecommunications towers shall adhere to the height restrictions of Article P. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3038 Visibility at intersections.

The minimum development standards set forth in this section shall apply to land abutting street intersections delineated as follows:



(1) A triangular area formed by intersecting the sides on curb (or pavement edge where there is no curb) measuring thirty-five (35) feet in each direction along the curb or pavement edge from the point of intersection, and on the third side by the diagonal line connecting the ends of the thirty-five (35)-foot sides as illustrated; or

(2) A triangular area formed by intersecting the street right of way lines measuring twenty-five (25) feet in each direction from the point of intersection along the street right of way, and on the third side by the diagonal line connecting the ends of the thirty-five (35)-foot sides as illustrated

(3) Within the triangular areas as described above, and except as provided below, no structure, sign, plant, shrub, tree, berm, fence, wall, or other object of any kind shall be installed, constructed, set out or maintained to obstruct cross-visibility at a level that exceeds 30 inches above the level of the center of the street.

(4) On streets maintained by the North Carolina Department of Transportation, additional sight distance requirements may apply.

(5) In other than 90-degree intersections or where grades mandate, the town may impose additional sight triangles.

Exemptions

The restrictions set forth in 9-3038 shall not apply to the following:

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- (a) Existing natural grades which, by reason of natural topography, rise thirty (30) or more inches above the level of the center of the adjacent intersection;
- (b) Limbs and foliage from trees outside the triangular area trimmed in such a manner that no limbs or foliage extend into the triangular area between 30 and 96 inches above the level of the center of the butting intersection;
- (c) Fire hydrants, public utility poles, street markers, governmental signs, electrical junction boxes and traffic-control devices.
- (d) The clear sight triangles at street intersection restrictions established in this Section shall not apply to structures located in the B-1 Central Business District.
(Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3039 Location of accessory buildings.

(a) On any residential lot, except as hereafter provided, accessory buildings shall not be located in any front or side yard, shall not cover more than thirty (30) percent of any rear yard and shall be at least five (5) feet from any other building on the same lot and at least twenty (20) feet from any buildings used for human habitation on adjoining lots. All parts of the building, including the footings and roof overhang, shall be a minimum of ten (10) feet from any lot line; and further provided that in the case of corner lots such buildings or structures shall be set back at least twenty (20) feet from any side line right of way line. Exception: residential accessory buildings located in the B-1 Zoning District which shall be a minimum of five (5) feet from any lot line.

(b) Residential carports may be permitted in the side yard of a single-family dwelling provided such carports meet the side yard setback of a principal structure for the applicable zoning district. For the purposes of this section, a residential carport shall be defined as an accessory building consisting of a roof where the side walls are open and where the purpose of such a structure is to provide covered parking for non- commercial (passenger) motor vehicles. The storage of materials or equipment, other than motor vehicles, in a residential carport is prohibited if the carport is not located in the rear yard.

(1) A detached garage may be permitted in the side yard of a single-family dwelling provided such garage meets all of the side yard setbacks of the principal structure for the applicable zoning district and that it meets the general requirements/conditions for a detached garage as outlined in Section 9-3060.10.

(2) A residential property owner may apply for a conditional use permit to build a detached garage within the front yard subject to meeting all of the conditions set forth in Section 9-3060.10.

(c) Residential accessory buildings may be located in a front or side yard provided the lot is used for single- family purposes and is greater than five (5) acres in size (area). In such a case, the residential accessory building shall be set back from the front property line a minimum of two hundred (200) feet and shall meet all other applicable setbacks.

(d) On any commercial or industrial lot, accessory buildings may be located in a side or rear yard, provided they do not cover more than fifty (50) percent of the total area of the lot. Such accessory buildings shall be at least ten (10) feet from any other building on the same lot and at least twenty (20) feet from any buildings used for human habitation on adjoining lots. Vehicular canopies for gas pumps may project into a required front setback; provided,

however, such canopies may project no closer than within five (5) feet of the right of way line or property line and such structures may not extend into required buffer or side yard setback areas. All parts of each accessory building, including the footings and roof overhangs, shall be a minimum of ten (10) feet from any lot or right of way line. Fuel pumps shall be at least twenty (20) feet from property or right of way lines. Accessory buildings and structures shall be set back at least twenty (20) feet from any side property or right of way line. Exception: non-residential accessory buildings located in the B-1 zoning district shall be a minimum five (5) feet from any lot or right of way line. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/29/15)

Section 9-3040 Provisions for landlocked lots.

(a) Existing landlocked lots within the residential zoning district, defined as a lot that does not abut a public street by at least thirty-five (35) feet and therefore does not meet the requirement that the lot have a minimum frontage on a public street of thirty-five (35) feet, may nevertheless be developed for one single-family dwelling unit if the lot otherwise meets the zoning requirements of the zone in which the lot is located and provided that the lot has a recorded easement of ingress and egress to and from a public street which is appurtenant to the lot and which meets the following requirements:

(1) A private easement with a minimum continuous width of twenty-five (25) feet is acquired from intervening property owners; provided, however, an easement with a minimum continuous width of less than twenty-five (25) feet and a maximum length of three hundred (300) feet may be permitted only in situations where an easement with a minimum continuous width of twenty-five (25) feet would create a nonconformity with respect to this chapter;

(2) The recorded documents creating the easement that public service, utility and emergency personnel and vehicles shall have freedom of ingress and egress to and from the landlocked property;

(3) The recorded documents shall include a maintenance agreement specifying the party responsible for maintaining the easement and its traveled surface;

(4) The easement must have an ~~all-weather~~all-weather surface of gravel, concrete or asphalt with a minimum continuous width of ten (10) feet to ensure access of public service, utility, and emergency personnel and vehicles;

(b) Landlocked lots shall not be subdivided. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3041 Vested rights.

(a) The purpose of this section is to implement the provisions of G.S. 160A-385.1, pursuant to which a statutory zoning vested right is established upon approval of a site specific development plan.

(b) Definitions.

(1) Approval authority. The Town Council, Planning Board, Board of Adjustment, Town Clerk, Zoning Administrator, or other board or official designated by this chapter as being authorized to grant the specific zoning or land use permit approval that constitutes a site specific development.

(2) Site specific development plan.

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a. A plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits or approvals:

1. Zoning permit as provided by this chapter.
2. Conditional use permit as provided by this chapter.
3. Minor subdivision approval.
4. Major subdivision approval.

b. Notwithstanding the foregoing, neither a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

(3) Zoning vested rights. A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right. Under the terms of this chapter, a two (2) year zoning vested right shall be established upon issuance of a zoning permit. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3042 Permitted accessory uses in all districts.

The following accessory uses are permitted in all districts:

(a) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot. (See Section 9-3039.)

(b) Fences and walls. Fences consisting of masonry, rock, wire or wooden material and hedges may be installed on any residential lot, provided that the height of such fencing or walls shall be limited to a maximum height of four (4) feet in the front yard. Fencing and walls in the side or rear yard of residential property shall be limited to a maximum of eight (8) feet in height. Retaining walls and required screenings shall not be subject to the above height requirements.

(c) Parking lots. See Article F, Off-Street Parking Requirements. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3043 Setbacks along thoroughfares.

Pursuant to the authority granted by G.S. 160A-306, the following setback requirements shall apply to lots along thoroughfares:

(a) The minimum street setbacks for lots in each zoning district that abuts a thoroughfare shown in the adopted thoroughfare plan shall be measured from the existing right-of-way line for each classification of thoroughfare and shall meet the following requirements:

Thoroughfare Classification

Additional Setback

Existing street recommended for securing additional right- of-way of ten (10) feet or less

Ten (10) feet

Existing street recommended for securing additional right-of- way of more than ten (10) feet

One-half the difference between the existing and recommended rights-of-way, but less than ten (10) feet

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Not recommended for securing additional right-of-way

No additional setback required

Note: Where rights-of-way for street widening have been acquired, setbacks shall be measured from the right-of-way line that has been established.

(b) Use of additional setback. The additional setback adjacent to the existing right-of-way may not be developed for parking, but may be used for fences, buffers, landscaping, signs, lighting fixtures, or other similar improvements. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3044 Property maintenance.

(a) This section shall apply to all properties within the town jurisdiction. The requirements contained herein shall become effective upon adoption of this chapter; however, no enforcement proceedings shall commence under this section until sixty (60) days after adoption. This sixty (60) day period is to allow property owners time to make necessary improvements required under this section.

(b) Construction. All new structures shall be designed, constructed and maintained in accordance with the following standards: All structures shall comply with applicable provisions of this chapter, and the state building code as adopted by the State Building Code Council, and the town minimum housing code, and such other building ordinances as may be adopted and or amended by the town from time to time.

(c) Maintenance. All structures erected, occupied or continued under this chapter shall be maintained in good structural condition, in compliance with all applicable codes and provisions of this chapter. Specifically:

(1) All existing structures shall comply with applicable provisions of this chapter and the following codes, including but not limited to the State Building Code Volume IX—Existing Buildings, the requirements of the code under which the building was built, and the town minimum housing code.

(2) A structure shall have no more than twenty (20) percent of its exterior roofs, walls, and other elements of the structure covered with disfigured, cracked, or peeling surface materials for a period of more than thirty (30) consecutive days.

(3) A structure shall not be maintained with broken windows, holes in exterior surfaces including roofs and walls, ripped awnings, loose materials, loose elements or other obvious exterior defects for a period of more than thirty (30) consecutive days. Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted, or intended for human occupancy or use.

(4) A structure shall not have weeds, trees, vines, or other vegetation growing upon it greater than twelve (12) inches in height in an untended manner for a period of more than fifteen (15) consecutive days.

(5) All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, stormwater management areas and systems, and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.

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(6) The owner or tenant shall maintain all landscape areas, trees and shrubs in a neat and healthy condition free of diseased, dead, or bare areas, free of debris and free of grass or weeds greater than twelve (12) inches in height.

(7) The owner or tenant shall maintain all required landscaped areas in a manner consistent with the requirements of this chapter. Dead plants shall be replaced as necessary to maintain compliance with the regulations contained herein.

(8) The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash, including but not limited to discarded furniture and other household goods, inoperative vehicles, and inoperative equipment, except within approved dumpsters or trash enclosures, enclosed storage areas, or on land approved for the operation of a junk yard. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3045 Home occupations.

(a) A home occupation is permitted accessory to any dwelling unit (except manufactured housing) in accordance with the following requirements:

(1) The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.

(2) A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling.

(3) The use shall employ no person who is not a resident of the dwelling.

(4) A home occupation housed within the dwelling shall occupy no more than twenty-five (25) percent of the total floor area of the dwelling.

(5) There shall be no visible outside display of stock in trade that is sold on the premises.

(6) There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation, excepting equipment or materials of a type and quantity that could reasonably be associated with the principal residential use.

(7) Operation of the home occupation shall not be visible from any dwelling on an adjacent lot, nor from a street.

(8) Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.

(9) The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.

(10) Home occupations shall be limited to those uses which do not draw clients to the dwelling on a regular basis.

(11) No business identification or advertising signs are permitted.

(12) All home occupations shall require a zoning permit. Permits are not transferable from person to person or from address to address.

(13) There may be one annual inspection by the town staff to ensure the home occupation is operating within the requirements specified by this chapter. The town staff shall have the right at any time, upon reasonable request, to enter and inspect the premises covered by the zoning permit for safety and compliance purposes.

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(14) In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. nor later than 9:00 p.m.

(15) No more than one home occupation shall be permitted within any single dwelling unit or accessory structure.

(16) There shall be no deliveries to or from a home occupation with a vehicle larger than a three-quarter (3/4) ton truck.

(17) No home occupation shall cause an increase in the use of any public utilities or services (water, sewer, garbage collection, etc.) so that the combined total use for dwelling unit and home occupation purposes exceeds the average for residences in the neighborhood.

(18) Home occupations shall comply with all local, state, and federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

(19) Any non-conforming home occupation shall be discontinued or comply with all applicable provisions of this section within sixty (60) days after the home occupation first became non-conforming.

(20) Any pre-existing (prior to the date of adoption of this section and approved by zoning permit) home occupation, made non-conforming by this section, may be continued for a period of two (2) years after adoption of this section or the discovery of the non-conforming use.

(b) The following uses are permitted in a home occupation:

- (1) Architectural, drafting, and graphic services;
- (2) Art restoration;
- (3) Art/photography studio;
- (4) Barber shop;
- (5) Beauty salons;
- (6) Consulting offices;
- (7) Contracting offices;
- (8) Data processing;
- (9) Dressmaking, sewing, and tailoring;
- (10) Electronic assembly and repair;
- (11) Engineering services;
- (12) Financial planning and investment services;
- (13) Flower arranging;
- (14) Gardening and landscaping services;
- (15) Home crafts;
- (16) House cleaning services;
- (17) Insurance sales broker;
- (18) Interior design;
- (19) Jewelry making and repair;
- (20) Locksmith;
- (21) Mail order (not including retail sales from the site);
- (22) Real estate sales broker;

- (23) Sales representative, general;
- (24) Tutoring;
- (25) Upholstering, furniture.
- (c) The following uses are prohibited in a home occupation:
 - (1) Adult oriented businesses;
 - (2) Large appliance repair;
 - (3) Automotive repair shops;
 - (4) Automotive painting;
 - (5) Carpentry/cabinet making;
 - (6) Caterers and food vendors;
 - (7) Commercial cabinetry shop;
 - (8) Dance studios;
 - (7) Furniture construction;
 - (8) Kennels;
 - (9) Machine shops;
 - (10) On-site vehicular sales;
 - (11) Rental businesses;
 - (12) Engine/mechanical repair shops;
 - (13) Trucking services;
 - (14) Welding shops;
 - (15) Other uses not listed as a permitted use. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3046 Buffers.

Intent: The purpose of this article is to preserve and protect the health, safety, and general welfare of the residents of the town by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide transition between different zones and preserve the character and aesthetics of an area. (See "Buffer" definition in Section 9-3012). (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3046.1 Standards.

(1) When industrial and commercial property is developed adjacent to vacant property zoned residential or when nonresidential uses are developed in residential zones, a buffer shall be required.

(2) The planted buffers as provided in Section 9-3046 shall be required in all industrial and commercial zones when these areas abut residential zones and for all nonresidential uses in residential zones.

(3) All plant types required in this article shall consist of plants at least three (3) feet in height when planted.

(4) When two (2) rows of plantings are required, plants shall be staggered in a triangular pattern so that there is a plant spaced the required distance apart as specified in Section 9-3046.2.4.

(5) When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.

(6) The buffer shall be shown in detail on the site plan approved by the town.

(7) The buffer shall be installed and approved before a certificate of occupancy will be granted except when seasonal weather conditions are not conducive, a temporary certificate of occupancy may be issued for up to ninety (90) days.

(8) The buffer shall be maintained, and dead and diseased plants replaced by the owner or occupant of the premises. The outside storage of materials shall be prohibited in the area between the planted buffer and the residential district. The owner or occupant of the premises shall properly and continuously maintain this area.

(9) If a fence is erected on the residential district side of the planted buffer by the party establishing the buffer, the fence shall be one of the following types:

- a. A six (6) foot high wood, basket weave type fence;
- b. A six (6) foot high picket type fence;
- c. A six (6) foot high chain link type fence;
- d. A six (6) foot high open type fence;
- e. A six (6) foot high solid masonry wall.

(10) Fences with barbed or razor wire shall be located on the inside of the buffer. The height of the buffer plantings shall equal the height of the barbed or razor wire at the time of the planting. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3046.2 Planting specifications.

(a) Manufacturing-Industrial Zones (M-I) that abut residential zones (R-8, R-12, R-12A). A planted buffer shall reach a minimum height of eight (8) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of two (2) rows of plants no more than ten (10) feet apart in each row. One (1) of the plant types listed in Section 9-3046.1(d) shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

(b) Commercial or Business Zones (B-1, B-2, O-I) that abut residential zones (R-8, R-12, R-12A) and non-residential uses in residential zones (R-8, R-12, R-12A). A planted buffer shall reach a minimum height of six (6) feet. Plants used on a buffer shall be a species that forms a continuous year-round opaque screen within three (3) years after planting. The planted buffer shall be composed of one (1) row of plants no more than ten (10) feet apart in the row. One (1) of the plant types listed in Section 9-3046.1(d) shall be used, and the plants shall be located no further apart than the distance indicated for each plant type. The planted buffer area shall be at least ten (10) feet wide.

(c) Required buffer heights and topographic considerations. The required height of the planted buffer shall be measured in relation to the elevation of the edge of the adjacent area to be screened. In such cases as the ground elevation of the location at which the screen is to be planted is less than the elevation of the proposed building site, the required height of the screen shall be increased in an amount equal to said difference in elevation.

(d) Plant types and spacing.

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(1) Below are listed the types of plants that shall be used in planted buffers and the maximum distance each plant type shall be planted apart. Substitution for another plant type not listed is to be made in writing to the zoning administrator and is subject to verification that the proposed plant will thrive and provide adequate screening. No more than thirty (30) percent of the total plantings in a buffer shall be deciduous plants.

Plant	Distance Apart (in feet)
Plant	Distance Apart (in feet)
Arbor Vitae	4
Ligustrum Japonicum and varieties	5
Photinia	5
Holly	5
a. Nellie R. Stevens	5
b. Fosters #2	4
c. Savannah	4
d. Bufordi	5
Eleagnus Pungens	5
Osmanthus Varieties	4
Pfitzer Juniper	4
Doublefile Viburnum	5
Forsythia	3
White Pine	8 to 10
Scotch Pine	5 to 6
Deodara Cedar	8 to 10
Dogwood	8 to 10
Flowering Cherry	8 to 10
Flowering Crabapple	8 to 10
Bradford Pear	8 to 10
Oak	8 to 10
Linden	8 to 10
Leyland Cypress	8 to 10

(Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3047 Provisions for ten-acre exempt developments.

Ten-acre exempt developments shall be approved by the Town of Valdese upon allowance of a Conditional Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:

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- (1) The use will not materially endanger the public health, safety, and general welfare.
 - (2) The use will not substantially injure the value of adjoining or abutting property.
 - (3) The use is consistent with any adopted area plans that encompass the property subject to the application.
 - (4) The development access road shall remain private.
 - (5) The development access road shall be constructed in accordance with the North Carolina Fire Prevention Code standards.
 - (6) An easement shall be granted to the Town of Valdese to guarantee access for Public Safety, Public Works, and Planning Department.
 - (7) An entity other than the town, such as property owners, homeowners association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.
 - (8) The development shall not exceed 5 (five) building tracts.
 - (9) Public Works shall not be responsible for any garbage pick-up, rough trash services, white goods or yard waste, except at a designated area located nearest the entrance to the property, as approved by the Town of Valdese.
 - (10) The development shall comply with the requirements outlined in Code of Ordinances Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution and Chapter 2, Sewer Collection and Disposal.
- (Ord. of / /)

Section 9-3048 Provisions for gated subdivisions.

Gated Subdivisions shall be approved by the Town of Valdese in upon allowance of a Conditional Use Permit. Before an application for the permit is approved, there shall be findings that the following general standards are met:

- (1) The use will not materially endanger the public health, safety, and general welfare.
- (2) The use will not substantially injure the value of adjoining or abutting property.
- (3) The use is consistent with any adopted area plans that encompass the property subject to the application.
- (4) Subdivision roads within gated subdivisions shall remain private.
- (5) Subdivision roads shall be paved in accordance with the North Carolina Department of Transportation Road Standards and shall comply with the North Carolina Fire Prevention Code standards.
- (6) The subdivision gate and access road for ingress and egress shall be compliant with the North Carolina Fire Prevention Code and subject to approval by the Planning Department, Fire Department, Police Department and Public Works Department.
- (7) An easement shall be granted to the Town of Valdese to guarantee access for Public Safety, Public Works, and Planning Department.
- (8) An entity other than the Town of Valdese, such as property owners, homeowners association, community group, property management company or similar type of organizations, shall be responsible for upkeep and maintenance.

(9) The gated ingress/egress areas, along with the exterior gate(s) encompassing the development, shall be kept in working order and shall be repaired and/or replaced in the event they are disabled and/or damaged.

(10) The development shall comply with the requirements outlined in Code of Ordinances Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution and Chapter 2, Sewer Collection and Disposal.

(Ord. of / /)

Section 9-3049 through section 9-3050 reserved.

DRAFT

ARTICLE E
Use Requirements by District

Section 9-3051 Neighborhood Residential District (R-8).

Intent: The district shall provide for town-scaled residential development within walking distance (generally one-fourth (1/4) mile) of services. Streets shall be interconnected and a range of lot sizes is encouraged. The Neighborhood Residential District is to permit the completion and conformity of residential subdivisions. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3051.1 Permitted uses.

(a) Uses permitted by right:

- (1) Boarding house.
- (2) Cemeteries.
- (3) Churches.
- (4) Essential services 1 and 2.
- (5) Family care homes.
- (6) Government buildings up to five thousand (5,000) square feet of gross floor area.
- (7) Manufactured homes, Class A.
- (8) Modular home.
- (9) Neighborhood and outdoor recreation.
- (10) Parks.
- (11) Single-family homes.
- (12) Two-family homes (duplexes).

(b) Uses permitted with special requirements:

- (1) Accessory dwellings.
- (2) Bed and breakfast inns.

(c) Uses permitted with a conditional use permit:

(1) Bakeries, delicatessens and the like, provided the products prepared or processed on the premises shall only be sold at retail and only on the premises.

- (2) Barber and beauty shops.
- (3) Day care center.
- (4) Florist shops, but not commercial greenhouses.
- (5) Grocery stores.
- (6) Laundromats
- (7) Mixed uses.
- (8) Multi-family building.
- (9) Planned unit development—business.
- (10) Planned unit development—residential.
- (11) Produce stands and open air markets, retail only.
- (12) Public and private elementary and secondary schools.
- (13) Residential care facility.

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(14) Detached garage located in front yard.

(15) Ten-acre exempt development.

(16) Gated subdivision.

(d) Permitted accessory structures and uses:

(1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.

(2) Day care home.

(3) Home occupations. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of / /)

Section 9-3051.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3051.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3051.4 Dimensional requirements.

(a) Minimum lot width:

(1) Single-family home—fifty (50) feet.

(2) Two-family home—sixty (60) feet.

(3) Multi-family homes—seventy (70) feet for three (3) dwelling units plus ten (10) feet for each four (4) additional dwelling units.

(4) Non-residential buildings—seventy (70) feet.

(b) Minimum building setback:

(1) Minimum front building setback:—twenty (20) feet.

(2) Minimum side building setback—ten (10) feet (fifteen (15) feet for side abutting a street right-of-way)

(3) Minimum rear building setback—twenty-five (25) feet.

(c) Maximum building height:

(1) Maximum building height for residential structures— forty (40) feet.

(2) Maximum building height for non-residential structures—fifty (50) feet.

(d) Minimum lot sizes and maximum lot coverages: Development activities that do not require a sedimentation/erosion control plan under state law are subject only to subdivisions (1) and (3) below.

(1) Lots deeded prior to October 1, 1993, to be developed for single-family detached dwellings:

a. Either water or sewer:—twenty thousand (20,000) square feet;

b. Water and sewer:—eight thousand (8,000) square feet;

c. Maximum permissible lot coverage by principal and accessory buildings shall not exceed forty (40) percent of the total lot area.

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(2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a sedimentation/erosion control plan under state law:

a. OPTION 1:

1. No water and no sewer—forty thousand square (40,000)
2. Either water or sewer—twenty thousand (20,000) square feet;
3. Water and sewer—eight thousand (8,000) square feet;
4. Maximum permissible impervious surface coverage as defined in this chapter shall not exceed thirty- six (36) percent of the total lot area, or twenty-four (24) percent of the total lot area if the lot is located in a WS-4 critical area or abuts a curb and gutter street system.

b. OPTION 2:

1. No water and no sewer—forty thousand (40,000) square feet;
2. Either water or sewer—twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre);
3. Water and sewer—fourteen thousand five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre), or twenty-one thousand seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre) if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.
4. Maximum permissible lot coverage by principal and accessory buildings shall not exceed thirty (30) percent of the total lot area.

(3) Lots to be developed for multi-family dwellings, where the development does not require a sedimentation/erosion control plan under state law:

a. Water and sewer required—eight thousand (8,000) square feet for the first unit, four thousand (4,000) square feet for the second unit, and three thousand (3,000) square feet for each additional unit.

b. Maximum permissible lot coverage by principal and accessory buildings shall not exceed thirty (30) percent of the total lot area.

(4) Lots to be developed for multi-family dwellings, where the development requires a sedimentation/erosion control plan under state law:

a. OPTION 1:

1. Water and sewer required— eight thousand (8,000) square feet for the first unit, four thousand (4,000) square feet for the second unit, and three thousand (3,000) square feet for each additional unit.

2. Maximum permissible impervious surface coverage, as defined in this chapter, shall not exceed thirty-six (36) percent of the total lot area, or twenty-four (24) percent of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

b. OPTION 2:

1. Water and sewer required—fourteen thousand, five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre) for each unit, or twenty-one thousand, seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre) for each unit if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

2. Maximum permissible lot coverage by principal and accessory buildings shall not exceed forty (40) percent of the total lot area. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3052 Residential District (R-12A).

Intent: The R-12A district is intended to be a moderately quiet, medium-high density residential living area consisting of single-family, two-family and multi-family dwellings, along with limited home occupations and limited private and public community uses. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3052.1 Permitted uses.

- (a) Uses permitted by right:
 - (1) Boarding house.
 - (2) Cemeteries.
 - (3) Churches.
 - (4) Essential services 1 and 2.
 - (5) Family care homes.
 - (6) Government buildings up to 5,000 square feet of gross floor area.
 - (7) Modular home.
 - (9) Neighborhood and outdoor recreation.
 - (10) Parks.
 - (11) Single-family homes, excluding manufactured homes.
 - (12) Two-family homes (duplexes).
- (b) Uses permitted with special requirements:
 - (1) Accessory dwellings.
 - (2) Bed and breakfast inns.
 - (3) Day care center.
- (c) Uses permitted with a conditional use permit:
 - (1) Multi-family building.
 - (2) Residential care facilities.
 - (3) Planned unit development—residential.
 - (4) Public and private elementary and secondary schools.
 - (5) Detached garage located in front yard.
 - (6) Ten-acre exempt development.
 - (7) Gated subdivision.
- (d) Permitted accessory structures and uses:
 - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
 - (2) Day care home.
 - (3) Home occupations. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/29/15; Ord. of / /)

Section 9-3052.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3052.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3052.4 Dimensional requirements.**(a) Minimum lot width:**

- (1) Single-family home—seventy (70) feet.
- (2) Multi-family homes—seventy (70) feet for three dwelling units plus ten (10) feet for each additional dwelling unit.

(3) Non-residential buildings—seventy (70) feet.**(b) Minimum building setback:**

- (1) Minimum front building setback—thirty-five (35) feet.
- (2) Minimum side building setback —ten (10) feet (fifteen (15) feet for side abutting a street right-of-way).

(3) Minimum rear building setback —twenty-five (25) feet.**(c) Maximum building height:**

- (1) Maximum building height for residential structures —forty (40) feet.
- (2) Maximum building height for non-residential structures —fifty (50) feet.

(d) Minimum lot sizes and maximum lot coverages: Development activities that do not require a sedimentation/erosion control plan under state law are subject only to Sections 1 and 3 below.

(1) Lots deeded prior to October 1, 1993, to be developed for single-family detached dwellings:

- a. Either water or sewer—twenty thousand (20,000) square feet;
- b. Water and sewer —twelve thousand (12,000) square feet.
- c. Maximum permissible lot coverage by principal and accessory buildings shall not exceed forty percent (40%) of the total lot area.

(2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a Sedimentation/Erosion Control Plan under State law:

a. OPTION 1:

1. No water or sewer—forty thousand (40,000) square feet;
2. Either water or sewer—twenty thousand (20,000) square feet;
3. Water and sewer—twelve thousand (12,000) square feet.
4. Maximum permissible impervious surface coverage as defined in this chapter shall not exceed thirty- six percent (36%) of the total lot area, or twenty-four percent (24%) of the total lot area if the lot is located in a WS-4 critical area or abuts a curb and gutter street system.

b. OPTION 2:

1. No water and no sewer—forty thousand (40,000) square feet;
2. Either water or sewer— twenty-one thousand, seven hundred eighty (21,780) square feet (½ acre);

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3. Water and sewer—fourteen thousand, five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre), or twenty-one thousand, seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre) if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

4. Maximum permissible lot coverage by principal and accessory buildings shall not exceed thirty percent (30%) of the total lot area.

(3) Lots to be developed for multi-family dwellings, where the development does not require a sedimentation/erosion control plan under state law:

a. Water and sewer required—twelve thousand (12,000) square feet for the first unit, four thousand (4,000) square feet for the second unit, and three thousand (3,000) square feet for each additional unit.

b. Maximum permissible lot coverage by principal and accessory buildings shall not exceed thirty percent (30%) of the total lot area.

(4) Lots to be developed for multi-family dwellings, where the development requires a sedimentation/erosion control plan under state law:

a. OPTION 1:

1. Water and sewer required—twelve thousand (12,000) square feet for the first unit, four thousand (4,000) square feet for the second unit, and three thousand (3,000) square feet for each additional unit.

2. Maximum permissible impervious surface coverage, as defined in this chapter, shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four percent (24%) of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

b. OPTION 2:

1. Water and sewer required—fourteen thousand, five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre) for each unit, or twenty-one thousand, seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre) for each unit if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.

2. Maximum permissible lot coverage by principal and accessory buildings shall not exceed forty percent (40%) of the total lot area. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3053 Residential District (R-12).

Intent: The district shall provide for agricultural uses as well as single-family development. The purpose of the R-12 District is to provide an adequate amount of land for agricultural uses and single-family residential development. Uses that would interfere with the quiet, less urban residential nature of single-family neighborhoods, such as multi-family and commercial uses, are not appropriate in this district. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3053.1 Permitted uses.

(a) Uses permitted by right:

(1) Cemeteries.

(2) Churches.

(3) Essential services 1 and 2.

(4) Family care homes.

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- (5) Government buildings up to five thousand (5,000) square feet of gross floor area.
- (6) Modular home.
- (7) Neighborhood and outdoor recreation.
- (8) Parks.
- (9) Single-family homes, excluding manufactured homes.
- (b) Uses permitted with special requirements:
 - (1) Accessory dwellings.
 - (2) Bed and breakfast inns.
- (c) Uses permitted with a conditional use permit:
 - (1) Bona fide farms but not agricultural industry.
 - (2) Public and private elementary and secondary schools.
 - (3) Residential care facility.
 - (4) Detached garage located in front yard.
 - (5) Ten-acre exempt development.
 - (6) Gated subdivision.
- (d) Permitted accessory structures and uses:
 - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
 - (2) Day care home.
 - (3) Home occupations. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/29/15; Ord. of / /)

Section 9-3053.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3053.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3053.4 Dimensional requirements.

- (a) Minimum lot width:
 - (1) Single-family home—seventy (70) feet.
 - (2) Non-residential buildings—seventy (70) feet.
- (b) Minimum building setback:
 - (1) Minimum front building setback—thirty-five (35) feet.
 - (2) Minimum side building setback—ten (10) feet (fifteen (15) feet for side abutting a street right-of-way).
 - (3) Minimum rear building setback—twenty-five (25) feet.
- (c) Maximum building height:
 - (1) Maximum building height for residential structures—forty (40) feet.
 - (2) Maximum building height for non-residential structures—fifty (50) feet.

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(d) Minimum lot sizes and maximum lot coverages: Development activities that do not require a sedimentation/erosion control plan under state law are subject only to section 1 below.

(1) Lots deeded prior to October 1, 1993, to be developed for single-family detached dwellings:

- a. Either water or sewer—twenty thousand (20,000) square feet;
- b. Water and sewer—twelve thousand (12,000) square feet.
- c. Maximum permissible lot coverage by principal and accessory buildings shall not exceed forty percent (40%) of the total lot area.

(2) Lots deeded on or after October 1, 1993, to be developed for single-family detached dwellings where the development requires a sedimentation/erosion control plan under state law:

- a. OPTION 1:
 1. No water and no sewer—forty thousand (40,000) square feet;
 2. Either water or sewer—twenty thousand (20,000) square feet;
 3. Water and sewer—twelve thousand (12,000) square feet.
 4. Maximum permissible impervious surface coverage as defined in this chapter shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four percent (24%) of the total lot area if the lot is located in a WS-4 critical area or abuts a curb and gutter street system.
- b. OPTION 2:
 1. No water and no sewer—forty thousand (40,000) square feet;
 2. Either water or sewer—twenty-one thousand, seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre);
 3. Water and sewer—fourteen thousand, five hundred twenty (14,520) square feet ($\frac{1}{3}$ acre), or twenty-one thousand, seven hundred eighty (21,780) square feet ($\frac{1}{2}$ acre) if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system.
 4. Maximum permissible lot coverage by principal and accessory buildings shall not exceed thirty percent (30%) of the total lot area. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3054 Office-Institutional District (O-I).

Intent: The Office-Institutional District is designed to provide a wide range of professional and institutional uses, as well as space for public and quasi-public uses. (Ord. of 1/10/05; Ord. of 1/5/09; Ord. of 12/6/10)

Section 9-3054.1 Permitted uses.

- (a) Uses permitted by right:
 - (1) Art galleries.
 - (2) Auditoriums, armories, publicly owned recreation facilities.
 - (3) Business office type.
 - (4) Child care institution.
 - (5) Churches.

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- (6) Community center.
- (7) Essential services 1 and 2.
- (8) Funeral homes.
- (9) Financial services.
- (10) Government buildings up to five thousand (5,000) square feet of gross floor area.
- (11) Hospice and palliative care facility.
- (12) Hospitals.
- (13) Libraries.
- (14) Medical or professional services.
- (15) Mixed uses.
- (16) Modular home.
- (17) Museums.
- (18) Music or dance institutions/schools.
- (19) Neighborhood and outdoor recreation.
- (20) Nursing homes.
- (21) Residential care facilities.
- (22) Parks.
- (23) Single-family home, excluding manufactured homes, provided setback requirements of the R-8 Residential are met.
- (24) Veterinary hospital or clinic.
- (b) Uses permitted with special requirements:
 - (1) Accessory dwellings.
 - (2) Day care center.
 - (3) Bed and breakfast inns.
 - (4) Brewpubs.
 - (5) Microbreweries.
 - (6) Restaurants.
- (c) Uses permitted with a conditional use permit:
 - (1) Multi-family building.
 - (2) Planned unit development—business.
 - (3) Planned unit development—residential.
 - (4) Public and private elementary and secondary schools.
- (d) Permitted accessory structures and uses:
 - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
 - (2) Day care homes.
 - (3) Home occupations.
- (e) Within the O-I District all principal and accessory uses shall be conducted wholly within enclosed buildings with the exception of drive-through service, vending machinery, incidental displays of merchandise, displays associated with official festivals and similar

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incidental outdoor displays. (Ord. of 1/10/05; Ord. of 1/5/09; Ord. of 12/6/10; Ord. 12/1/14)

Section 9-3054.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3054.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3054.4 Dimensional requirements.

- (a) Minimum lot width: none.
- (b) Minimum building setback:
 - (1) Minimum front building setback—twenty (20) feet.
 - (2) Minimum side building setback—ten (10) feet. An average of ten (10) feet may meet the side building setback requirements under the following requirements:
 - a. A conditional use permit is required.
 - b. Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
 - c. An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used.
 - (3) Minimum rear building setback—fifteen (15) feet.
- (c) Maximum building height: fifty (50) feet.
- (d) Minimum lot sizes and maximum lot coverages. Within the Office-Institutional District, there is no minimum lot size and development activities can cover one hundred percent (100%) of the lot area not within the required setbacks. However, if the development activity requires a sedimentation/erosion control plan, the maximum permissible impervious surface coverage, as defined by this chapter, shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four percent (24%) of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3055 Central Business District (B-1).

Intent: The purpose of Central Business District is to accommodate and encourage further expansion and renewal in the historic/business core of the town. A variety of business, retail, professional, financial, cultural, and other related services are encouraged in an effort to provide the mix of activities necessary to shoppers. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3055.1 Permitted uses.

- (a) Uses permitted by right:
 - (1) Alcoholic beverages, packaged, retail sales.

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- (2) Amusements such as indoor theater, pool rooms, and bowling alleys.
- (3) Art galleries.
- (4) Auditoriums, armories, publicly owned recreation facilities.
- (5) Automobile parking lots.
- (6) Automobile parts and supplies sales, new.
- (7) Bakeries, where the products are sold exclusively at retail on the premises.
- (8) Barber and beauty shops.
- (9) Bicycle sales and repair shops.
- (10) Bus terminals and railroad stations.
- (11) Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence.
- (12) Business office type.
- (13) Churches.
- (14) Clubs and lodges catering exclusively to member and their guests.
- (15) Community center.
- (16) Convenience stores.
- (17) Dry cleaning and laundry pickup stations and dry cleaning facilities.
- (18) Essential services 1 and 2.
- (19) Farmers market.
- (20) Financial services.
- (21) Florist shops, but not commercial greenhouses.
- (22) Food stores, retail only.
- (23) Funeral homes.
- (24) Government buildings.
- (25) Gunsmiths.
- (26) Hand-made crafts, retail sale of, and production for on-site sales.
- (27) Hotels, motels, boarding houses.
- (28) Laundromats.
- (29) Locksmiths.
- (30) Medical or professional services.
- (31) Massage therapy.
- (32) Mixed uses.
- (33) Museums.
- (34) Neighborhood and outdoor recreation.
- (35) Newsstands, newspaper offices and printing facilities incidental to such offices.
- (36) Office equipment and supplies, sales and service.
- (37) Parks.
- (38) Pawn shops.
- (39) Photographic studios and camera supply stores.
- (40) Retail printing, publishing and reproduction establishments.
- (41) Radio and television, electronics repair and sales.

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- (42) Restaurants, including drive through windows as an accessory use.
- (43) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book, and stationary stores, but not excluding similar retail establishments.
- (44) Shoe repair shops.
- (45) Tailor, dressmaking and millinery shops.
- (46) Taxi stands.
- (47) Telecommunication offices.
- (48) Theaters, indoor.
- (b) Uses permitted with special requirements:
 - (1) Bed and breakfast inns.
 - (2) Day care center.
 - (3) Outdoor seasonal sales.
 - (4) Artisan food and beverage producer.
- (c) Uses permitted with a conditional use permit:
 - (1) Bars.
 - (2) Drop boxes (on-premise only).
 - (3) Modular home.
 - (4) Multi-family building.
 - (5) Planned unit development—business.
 - (6) Planned unit development—residential.
 - (7) Public and private elementary and secondary schools.
 - (8) Single-family home, excluding manufactured homes.
- (d) Permitted accessory structures and uses:
 - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
 - (2) Day care home.
 - (3) Home occupations.
 - (4) Within the B-1 District all principal and accessory non-residential uses shall be conducted wholly within enclosed buildings with the exception of gasoline pumps, drive-through service, outdoor dining facilities associated with a restaurant, incidental displays of produce and merchandise or published materials, vending machinery, displays associated with official festivals and similar incidental outdoor displays. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 12/1/14; Ord. of 3/3/16)

Section 9-3055.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3055.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3055.4 Dimensional requirements.

(a) Minimum lot width: none. (Minimum frontage on a public street shall be thirty-five (35) feet).

(b) Minimum building setback:

(1) Minimum front building setback—zero (0) feet.

(2) Minimum side building setback—zero (0) feet (fifteen (15) feet for side abutting a residential district).

(3) Minimum rear building setback—zero (0) feet (fifteen (15) feet for side abutting a residential district).

(4) Note: If side or rear yards are provided they must be at least ten (10) feet in width.

(c) Maximum building height: fifty (50) feet.

(d) Minimum lot sizes and maximum lot coverages. Within the B-1 Central Business District, there is no minimum lot size and development activities can cover one hundred percent (100%) of the lot area. However, if the development activity requires a sedimentation/erosion control plan, the maximum permissible impervious surface coverage, as defined by this chapter, shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four (24%) of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3055.5 Amortization of certain conditions within the B-1 District.

(a) The uses listed in section 9-3055.5(b) shall comply with the requirements of this section (9-3055.5) within one (1) year of the adoption of this chapter.

(b) Sales of automobiles, recreational vehicles and other motor vehicles.

(c) Within one (1) year of adoption of this chapter all principal and accessory non-residential uses, except those as provided for in section 9-3055.1(c)(1) shall be conducted wholly within enclosed buildings. Additional exception: the outside display of automobiles, recreational vehicles and other motor vehicles for sale may be continued for existing businesses.

(d) Storage of inoperable vehicles on premises for more than seven (7) days shall cease within thirty (30) days of the adoption of this chapter.

(e) The uses listed in section 9-3055.5(b) shall comply with the following:

(1) All parking areas, including display areas for vehicles, shall be paved with asphalt or concrete. Vehicles shall not be parked on grass or graveled areas.

(2) All vehicles shall be setback five (5) feet from any right of way line.

(3) All vehicles for sale shall be separated from other vehicles for sale by a distance not less than four (4) feet. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3056 General Business District (B-2).

Intent: The intent of the General Business District is to encourage the establishment of areas for general business that do not require a central location. These districts are normally located along major radial highways leading out of town where they provide retailing goods

and services to the traveling public and local residents. (Ord. of 1/10/05; Ord. of 11/5/07; Ord. of 12/6/10)

Section 9-3056.1 Permitted uses.

(a) Uses permitted by right:

(1) Adult Establishments as defined in North Carolina General Statute Sec. 14-202.10 subject to the following requirements:

a. No adult establishment shall be located within a radius of one thousand (1,000) feet of another adult establishment.

b. No adult establishment shall be located within a radius of one thousand (1,000) feet of any residential district, nursing home, retirement home, church, child care center, park or playground.

c. All distances related to adult establishments shall be measured as follows:

1. The distance for the separation from residential zoning and protected uses shall be measured from the closest edge of the building occupied by an adult use to the nearest residential zoning district or to the property line of a protected use.

2. The distance for separation between adult uses shall be measured from the closest edges of the buildings occupied by adult uses.

d. No more than one adult establishment may be located within the same structure.

(2) Alcoholic beverages, packaged, retail sales.

(3) Amusements such as indoor theaters, pool rooms, and bowling alleys.

(4) Art galleries.

(5) Auditoriums, armories, publicly owned recreation facilities.

(6) Automobile parking lots.

(7) Automobile parts and supplies sales, new.

(8) Automotive repair.

(9) Automobile sales provided it meets the following requirements:

a. All vehicles for sale shall be parked only on surfaces paved with asphalt or concrete.

b. An indoor showroom that will accommodate at least two (2) vehicles shall be built or provided.

c. The storage of inoperable vehicles for more than seven (7) days shall be prohibited.

d. All vehicles for sale shall be separated from other vehicles for sale by a distance not less than (4) feet.

e. All vehicles shall be setback five (5) feet from any right of way line.

(10) Automotive service stations.

(11) Bakeries, where the products are sold exclusively at retail on the premises.

(12) Barber and beauty shops.

(13) Bicycle sales and repair shops.

(14) Bus terminals and railroad stations.

(15) Business colleges, barber and beauty schools, art schools, music and dance studios, and similar organizations, but not vocational schools, all without students in residence.

(16) Business office type.

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- (17) Car washes, detail shops.
- (18) Child care institution.
- (19) Churches.
- (20) Clubs and lodges catering exclusively to member and their guests.
- (21) Commercial and industrial trade schools.
- (22) Community center.
- (23) Convenience stores.
- (24) Dry cleaning and laundry pickup stations and dry cleaning facilities.
- (25) Electrical appliances and equipment, sales and repair, but excluding open storage.
- (26) Essential services 1 and 2.
- (27) Farmers market.
- (28) Feed, seed, and fertilizer sales, retail.
- (29) Financial services.
- (30) Florist shops, but not commercial greenhouses.
- (31) Food stores, retail only.
- (32) Funeral homes.
- (33) Government buildings.
- (34) Gunsmiths.
Hospice and palliative care facility.
- (35) Hospitals.
- (36) Hotels, motels, boarding houses.
- (37) Laundromats.
- (38) Locksmiths.
- (39) Massage therapy.
- (40) Medical or professional services.
- (41) Mixed uses.
- (42) Mini-warehouses.
- (43) Museums.
- (44) Neighborhood and outdoor recreation.
- (45) Newsstands, newspaper offices and printing facilities incidental to such offices.
- (46) Nursing homes.
- (47) Residential care facilities.
- (48) Office equipment and supplies, sales and service.
- (49) Parks.
- (50) Pawn shops.
- (51) Photographic studios and camera supply stores.
- (52) Plumbing, heating and refrigeration sales/service, but excluding open storage.
- (53) Public garages.
- (54) Radio and television, electronics repair and sales.
- (55) Restaurants, including drive through windows as an accessory use.

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(56) Retail establishments such as department, clothing, fabric, shoe, variety, notion, drug, hardware, furniture, appliance, music, art, antique, jewelry, sporting goods, toy, hobby, book, and stationary stores, but not excluding similar retail establishments.

(57) Retail printing, publishing and reproduction establishments.

(58) Service stations (See automotive service station).

(59) Shoe repair.

(60) Tailor, dressmaking and millinery shops.

(61) Taxi stands.

(62) Telecommunication offices.

(63) Theaters, indoor.

(64) Veterinary hospital or clinic.

(b) Uses permitted with special requirements:

(1) Bed and breakfast inns.

(2) Crematory or crematorium.

(3) Day care center.

(4) Kennels.

(5) Outdoor seasonal sales.

(6) Electronic gaming operations.

(7) Artisan food and beverage producer.

(c) Uses permitted with a conditional use permit:

(1) Automotive body repair.

(2) Bars.

(3) Modular home.

(4) Multi-family building.

(5) Planned unit development—business.

(6) Planned unit development—residential.

(7) Public and private elementary and secondary schools.

(8) Sign painting and fabrication shops.

(9) Single family dwellings, excluding manufactured houses.

(d) Permitted accessory structures and uses:

(1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.

(2) Day care home.

(3) Home occupations.

(4) Within the B-2 District all principal and accessory non-residential uses shall be conducted wholly within enclosed buildings with the exception of gasoline pumps, drive-through service, outdoor dining facilities associated with a restaurant, incidental displays of produce and merchandise or published materials, display of motor vehicles for sale, vending machinery, displays associated with official festivals and similar incidental outdoor displays. (Ord. of 1/10/05; Ord. of 11/5/07; Ord. of 12/3/07; Ord. of 12/6/10; Ord. of 12/3/12; Ord. of 12/1/14; Ord. of 3/3/16)

Section 9-3056.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3056.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3056.4 Dimensional requirements.

(a) Minimum lot width: none. (Minimum frontage on a public street shall be thirty-five (35) feet).

(b) Minimum building setback:

(1) Minimum front building setback—forty (40) feet.

(2) Minimum side building setback—ten (10) feet (twenty (20) feet for side abutting a residential district). An average of ten (10) feet may meet the side building setback requirements under the following requirements:

a. A conditional use permit is required.

b. Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.

c. An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used.

(3) Minimum rear building setback—ten (10) feet twenty (20) feet for side abutting a residential district).

(c) Maximum building height—fifty (50) feet.

(d) Minimum lot sizes and maximum lot coverages: Within the B-2 General Business District, there is no minimum lot size and development activities can cover one hundred percent (100%) of the total lot area not within the required setbacks. However, if the development activity requires a sedimentation/erosion control plan, the maximum permissible impervious surface coverage, as defined by this chapter, shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four (24%) of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3057 reserved.**Section 9-3058 Manufacturing District (M-1).**

Intent: This district is intended to establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of commercial uses which are most appropriately located as neighbors of industrial uses or which are necessary to service the immediate needs of people in these areas. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3058.1 Permitted uses.**(a) Uses permitted by right:**

- (1) Automotive body repair.
- (2) Automotive repair.
- (3) Automotive service station.
- (4) Essential Services - Class 1.
- (5) Essential Services - Class 2.
- (6) Essential Services - Class 3.
- (7) Industrial/commercial trade school.
- (8) Precision instrument manufacturing.
- (9) Recycling centers.
- (10) Recycling collection points.
- (11) Recycling plant.
- (12) Secondary schools.

(13) The manufacturing, processing, fabricating, and/or wholesaling of the following products: bedding, carpets, and pillows; clothing, including hosiery; electric and electronic products; foods and food products, not including slaughter houses; glass; household appliances; ice; leather goods, not including the processing or storage of rawhides; machine tools; metals and metal products; paints; paper products, not including the manufacturing or processing of paper; plastics; rubber products, not including the manufacturing or processing of rubber; textiles; wood and wood products, furniture, milk distribution (non-bottling) facilities.

- (14) Truck terminal.
- (15) Upholstery shops.
- (16) Veterinary hospital or clinic.

(17) Wholesale and warehousing establishments, but excluding the storage of hazardous or offensive items materials such as uncured hides, explosives, and nuclear waste products.

- (18) Large brewery.
- (19) Microbreweries.
- (20) Distillery.
- (21) Winery.

(b) Uses permitted with a conditional use permit:

- (1) Agricultural industry.

(2) Any lawful retail, service, repair, or wholesale use not specifically referred to in this section, provided no use shall be dangerous or detrimental to the health, safety, welfare or general character of this zone or the town.

(3) Automotive wrecking yards and scrap metal dealers, provided the premises are enclosed by a buffer.

- (4) Business-office type.
- (5) Essential services 3.
- (6) Flea markets.
- (7) Landfill.

- (8) Lumberyards.
- (9) Mobile/manufactured home sales lots.
- (10) Marinas.
- (11) Mixing plants for concrete or paving materials.
- (12) Stone crushing, cutting, and polishing.
- (13) Planned unit development—business.
- (14) The manufacturing, processing, fabricating, and/or wholesaling of the following products: animal feeds; building materials; gasoline, oil, or fuel storage; pottery, porcelain and vitreous china; soap, detergent and washing compounds.
- (15) Tobacco processing and storage.
- (c) Permitted accessory structures and uses:
 - (1) Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.
 - (2) Offices that are accessory to any permitted use of this district.
 - (3) Open storage as an accessory use.
- (d) Uses permitted with special requirements:
 - (1) Kennels.
 - (2) Artisan food and beverage producer. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10; Ord. of 12/1/14; Ord. of 3/3/16)

Section 9-3058.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3058.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3058.4 Dimensional requirements.

- (a) Minimum lot width: none. (Minimum frontage on a public street shall be thirty-five (35) feet).
- (b) Minimum building setback:
 - (1) Minimum front building setback—twenty-five (25) feet (fifty (50) feet where abutting a residential district, excluding right-of-way).
 - (2) Minimum side building setback—ten (10) feet (fifty (50) feet for side abutting a residential district). An average of ten (10) feet may meet the side building setback requirements under the following requirements:
 - a. A conditional use permit is required.
 - b. Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
 - c. An opaque, vegetative buffer is required along the side property line where the averaging option is approved. However, if topography or other issues make the buffer impractical, other options may be used.

(3) Minimum rear building setback—twenty (20) feet (fifty (50) feet for side abutting a residential district).

(c) Maximum building height:

(1) Maximum building height—fifty (50) feet.

(2) Buildings exceeding fifty (50) feet in height are permitted upon issuance of a conditional use permit.

(d) Minimum lot sizes and maximum lot coverages: Within the M-1 Manufacturing District, there is no minimum lot size and development activities can cover one hundred percent (100%) of the total lot area not within the required setbacks. However, if the development activity requires a sedimentation/erosion control plan, the maximum permissible impervious surface coverage, as defined by this chapter, shall not exceed thirty-six percent (36%) of the total lot area, or twenty-four (24%) of the total lot area if the lot is located within a WS-4 critical area or if the lot abuts a curb and gutter street system. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3059 Flood Plain Overlay District (FP).

Intent: This district is intended to assist in protecting against extreme hazard, loss of life and severe flood damage in Flood Plain areas. This overlay district is established to be the flood hazard area shown on the U.S. Housing and Urban Development FIA flood hazard boundary maps for the town. Uses in this district are intended to be associated with open space, recreational, and agricultural land uses and shall not hinder movement of floodwaters. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3059.1 Permitted uses.

(a) Uses permitted by right:

(1) Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, sod farming, and wild crop harvesting but not agricultural industry.

(2) Non-structural industrial and commercial accessory uses, including loading areas, parking areas, and private airport landing strips.

(3) Private and public recreational uses, including, golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, playgrounds, greenways, wildlife and nature preserves, hiking trails, and equestrian trails.

(4) Residential non-structural accessory uses.

(5) Municipal, county, state and federal government uses, which due to the nature of the services rendered, must have a specific location; that is stream gauge station, sewerage pumping/lift station, etc.

(6) Essential services 1 and 2, provided that the location, design, elevation and construction shall be in such a manner as to minimize or eliminate damage by flooding.

(b) Uses permitted with a conditional use permit:

(1) Essential services 3.

(2) Marinas.

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(c) Permitted accessory structures and uses: accessory uses permitted in underlying zoning district(s). (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3059.2 Off-street parking and loading requirements.

Off-street parking and loading requirements shall be met for all uses as required by Article F of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3059.3 Sign requirements.

See Article H of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3059.4 Dimensional requirements.

(a) Minimum lot width: none or as required by underlying zoning district, whichever is greater. (Minimum frontage on a public street shall be thirty-five (35) feet.)

(b) Minimum building setback: setbacks shall conform with the requirements of the underlying zoning district(s).

(c) Maximum building height: maximum building height shall be in accordance with the underlying zoning district(s).

(d) Minimum lot sizes and maximum lot coverages: lot sizes and coverages shall meet the underlying zoning district requirements. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3060 Special requirements for certain uses.

Sections 9-3060.01 through 9-3060.07 set forth special requirements for various uses. (Ord. of 12/6/10; Ord. of 12/3/12)

Section 9-3060.01 Accessory dwellings.

Accessory dwellings may be created on the same property as a single-family dwelling as an accessory use, only if such units comply with following limits, requirements, and conditions.

(1) An accessory dwelling must meet all standards of the minimum housing code for independent living units.

(2) The principal use of the lot shall be a single-family dwelling. Manufactured homes shall not be used as accessory dwellings.

(3) No more than one accessory dwelling shall be permitted on a single lot in conjunction with the principal dwelling unit.

(4) The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.

(5) A detached accessory dwelling shall be housed in a building not exceeding six hundred fifty (650) square feet of first floor area (maximum footprint); the structure may be dwelling only or may combine dwelling with garage, workshop, studio, or similar use. The accessory dwelling living area shall not exceed six hundred fifty (650) square feet of floor area.

(6) A detached accessory dwelling shall be located in the established rear yard and meet the setback standards applicable for accessory buildings.

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(7) The maximum height for an accessory dwelling shall be twenty (20) feet.

(8) An accessory dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained. (Ord. of 12/6/10)

Section 9-3060.02 Crematory or crematorium.

Crematory or crematoriums are subject to the following requirements:

(a) Use: No crematory shall be established except as an accessory use or structure to a North Carolina licensed funeral home in the B-2 General Business District.

(b) License: Any funeral home operating a crematory shall have and maintain a licensed crematory manager on staff, keep in force and effect all other licenses required under the North Carolina Crematory Act, and provide proof of continued re-licensing.

(c) Air Quality: Prior to issuance of a zoning permit, the applicant shall provide a certification from the North Carolina Division of Air Quality that the applicant complies with all air quality regulations or that the Division of Air Quality does not require permit.

(d) Building: The maximum footprint of the crematory shall not exceed four hundred (400) square feet. The exterior/veneer must be of similar material and design as the principle structure.

(e) Size: Crematory operations shall not contain more than one (1) cremation chamber.

(f) Location: No crematory shall be established on a funeral home lot within two hundred (200) feet of any existing residential dwelling on adjacent parcels or within 150 feet of any property line.

(g) Other: A crematory must comply with and be maintained in compliance with all applicable public health and environmental laws and rules and meet all of the standards established by the North Carolina Crematory Act, as amended or superseded, and any additional rules and regulations issued by the North Carolina State Board of Funeral Services. (Ord. of 12/6/10)

Section 9-3060.03 Day care homes and day care centers.

All day care homes and day care centers shall meet the following standards:

(1) In single family residential districts, day care homes must be clearly incidental to the residential use of the dwelling and must not change in the essential residential character of the dwelling.

(2) Play space must be provided in accordance with the regulations of the NC Department of Health and Human Services;

(3) The outdoor play space as required by the Department of Health and Human Services must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas or land otherwise unsuited for children's play space;

(4) A day care center shall provide a minimum twenty-five (25) square feet of indoor space per child;

(5) A day care center shall provide a minimum seventy-five (75) square feet of outdoor space per child;

(6) Play space may not be in the established front yard.

(7) Fences must comply with the fence regulations in Section 9-3042;

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(8) Day care centers in a residential district on a site greater than three (3) acres shall have frontage on a collector or thoroughfare street.

(9) A day center must meet a permitted lot type for the district in which it is to be located.

(10) There is no limit on the hours of operation of a day care center, but no outdoor play shall be permitted after sunset. (Ord. of 12/6/10)

Section 9-3060.04 Kennels.

Kennels are subject to the following requirements:

(1) The minimum lot size for a kennel shall be as set forth in the following:

Minimum Lot Size for Kennels**Number of Animals****Minimum Lot Size (Acres)**

1 - 10

2

11 - 20

4

21 - 30

6

Notes:

1) The minimum lot size may be waived by the Planning Department if the kennel is entirely enclosed as to protect adjacent uses from noise, odors and other objectionable characteristics.

2) An additional 10 animals may be added for each additional acre of land in excess of 6 acres.

(2) Outdoor kennels shall maintain a minimum setback of four hundred (400) linear feet from any existing residential structure on an adjoining lot.

(3) All structures associated with an outdoor kennel shall maintain a minimum setback of two hundred (200) feet from all lot lines.

(4) Indoor kennels shall maintain a minimum setback of one hundred (100) linear feet from any residential structure on an adjoining lot.

(5) All structures associated with an indoor kennel shall maintain a minimum setback of fifty (50) feet from all lot lines.

(6) The operator shall comply with requirements of the North Carolina Department of Agriculture and Consumer Services, Subchapter 52J (Animal Welfare Section).

(7) The operator shall provide written evidence of compliance with county and state standards. (Ord. of 12/6/10)

Section 9-3060.05 Outdoor seasonal sales.

Outdoor seasonal sales are subject to the following conditions:

(1) Outdoor seasonal sales may be open for eight (8) weeks per calendar year.

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- (2) The use may be located on a vacant lot or on a lot occupied by a nonresidential use.
 - (3) Construction of a permanent building is not permitted.
 - (4) Storage of goods in or sale of goods from trailer(s) on the site is prohibited.
 - (5) Parking may be provided and need not comply with Article F.
 - (6) The use, including all sale items, parking and maneuvering shall observe a setback line of twenty (20) feet.
 - (7) Sale items shall not be located in the sight distance triangle as set forth in 9-3038 Visibility at intersections.
 - (8) Any signage shall be in accordance with the sign requirements of the underlying zoning district.
 - (9) The operator is responsible for the removal of any vestige of the outdoor sale including signage.
 - (10) The owner of the property shall, if not the same as the outdoor seasonal sales operator, give written permission for seasonal sales to the operator.
 - (11) Stands shall be open on two (2) or more sides.
- (Ord. of 12/6/10)

Section 9-3060.06 Bed and breakfast inns.

- (1) The operators must be full-time residents of the premises.
- (2) No more than four (4) bedrooms may be devoted to guest accommodations
- (3) One non-illuminated sign, maximum of four (4) square feet, is permitted.
- (4) Minimum parking spaces required - two (2) spaces plus one (1) space for each room devoted to guest accommodations. (Ord. of 12/6/10)

Section 9-3060.07 Electronic gaming operations.

Electronic gaming operations are subject to the following requirements:

- (1) Electronic gaming operations are allowed only in the B-2 General Business District as a principle use.

Electronic gaming operations are not allowed as an accessory use in any zoning district.

- (2) No electronic gaming operation shall be located within one thousand (1,000) feet of another electronic gaming operation;
- (3) No electronic gaming operation shall be located within one thousand (1,000) feet of any residential district, nursing home, retirement home, church, child care center, school, park or playground.
- (4) All distances related to electronic gaming operations shall be measured as follows:
 - a. The distance for the separation from residential zoning districts and protected uses shall be measured from the closest edge of the building in which an electronic gaming operation is located to the nearest residential zoning district or to the property line of each protected use.
 - b. The distance for separation between electronic gaming operations shall be measured from the closest edges of the buildings in which an electronic gaming operation is located.

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(5) Any location for electronic gaming operations must meet the parking requirement of the B-2 General Business District.

(6) Each electronic gaming operation shall have all required permits and licenses and shall have paid all applicable fees set forth in the Town's fee schedule. (Amendment of 12/3/12)

Section 9-3060.08 Artisan food and beverage producer.

Artisan food and beverage producers are subject to the following requirements:

(1) The total floor area shall not exceed four thousand (4,000) square feet. The four thousand (4,000) square foot limitation is not applicable to the M-1 Manufacturing District.

(2) Shall include a tasting room/tap room and may also include other accessory uses such as a restaurant, retail, demonstration, education and training areas or other use incidental to the artisan food and beverage producer.

(3) All activities associated with the production, bottling, storage, and sales shall be conducted entirely within an enclosed structure. No outdoor storage of any kind, including but not limited to, raw materials, byproducts, equipment and inventory shall be permitted.

(4) Must comply with all state and federal alcohol and beverage laws, including G.S. Chapter 18B.

(5) A buffer, as outlined in Section 9-3046, is required where such use is adjacent to a residentially zoned area.

(6) Must comply with all other standards of the zoning district having jurisdiction.

(7) Conditions within the building shall be controlled to minimize noise and odor. (Ord. of 12/1/14; Ord. 3/3/16)

Section 9-3060.09 Restaurants in O-I District.

Restaurants in the O-I District are subject to the following requirements:

(1) Outdoor storage of goods and materials used in assembly, fabrication, or processing is prohibited.

(2) A buffer, as outlined in Section 9-3046, is required where such use is adjacent to a residentially zoned area.

(3) Must comply with all state and federal alcohol laws.

(4) Must comply with all other standards of the zoning district having jurisdiction. (Ord. of 12/1/14)

Section 9-3060.10 Detached garages.

(a) General requirements: Shall apply to all detached garages located in front or side yards.

(1) Garage shall not be used as a dwelling unit.

(2) Garage must meet all minimum setback requirements for the primary structure in the applicable zoning district.

(3) The maximum wall height shall not exceed fifteen (15) feet.

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(4) The footprint of any detached garage shall not exceed six hundred seventy-six (676) square feet, or ten percent (10%) of the lot area up to one thousand two hundred (1,200) square feet, whichever is greater.

(5) Garage shall be enclosed with an operable garage door to be maintained in good working order.

(6) If garage door is on the front façade, the door shall be kept closed when the house is unoccupied for more than a day.

(7) The outside walls of the garage shall not be clad with metal siding, and the building shall be completely enclosed.

(8) Garage shall be constructed of materials similar to materials used in the principal structure.

(9) A breezeway connection between a single- family dwelling and detached garage is allowed provided the following design standards are met:

- a. The breezeway must be physically attached to both buildings.
- b. The breezeway must be at least six (6) feet in width and can be no more than thirty (30) feet in length.
- c. The breezeway must consist of a roof, with more than sixty percent (60%) of the total perimeter enclosed by walls, doors or windows.
- d. The breezeway height shall not exceed fifteen (15) feet, measured from the average grade to the highest part of the structure.
- e. Walkways are not permitted on the roof of a breezeway.

(b) Conditional use requirements:

- (1) Proposed location of garage is completely or partially within front yard.
- (2) The materials used in the construction must meet or exceed the quality and appearance of the principal residence.
- (3) Shall only be considered for placement in the front yard when the topography or other natural features make it impractical to locate the garage in the side or rear yard.
- (4) A minimum of seventy-five percent (75%) of the principal structure shall be visible from all viewpoints along the front property line.
- (5) Shall only be allowed in a residential lot that has a natural ground slope of twenty-five (25) degrees or greater, as measured from the center of the front lot line to the center of the front facade of the principal building, or in a residential lot where the only feasible driveway route to the principal building would result in the driveway slope being greater than eighteen (18) degrees due to topography and/or natural obstructions.
- (6) The garage will not adversely affect the health, safety or welfare of persons residing in the neighborhood and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. (Ord. of 6/29/15)

Section 9-3061 Animal keeping.

(a) Purpose and definitions.

(1) The purpose of this section is to regulate the keeping of a horse, mule, goat, cattle, fowl and other birds that are not part of a bona fide farming operation. The ordinance applies to properties located within the corporate limits of the Town.

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(2) "Fowl" and "birds" include the following: chickens, game hens, ducks, swans, geese and other birds typically used as food. This definition for the purpose of animal keeping does not include parrots, parakeets, and other non-food birds.

(b) Prohibitions.

(1) Horses, mules, goats, cattle, all other types of livestock, fowl and other birds shall not be permitted within the Town limits, except as provided in Subsection (c) - Exceptions.

(c) Exceptions:

(1) Horses.

a. The keeping of horses is permitted provided the following conditions are met:

1. Allowed only in the R-12 Residential Zoning District.
2. Minimum of three (3) acres of property is available for each horse
3. The part of the property where the horse is kept shall be completely enclosed by fence.

(2) Chickens.

a. The keeping of chickens is permitted in the R-8, R-12, and R-12-A Residential Districts, provided the following conditions are met:

1. Maximum number of chickens on the property - ten (10).
2. No roosters are allowed.
3. Placement of the pen shall be in the rear yard only.
4. No free range (chickens are penned all times).
5. Pens shall be a minimum of one hundred (100) feet from all adjoining residences.
6. Pens shall be a minimum of fifty (50) feet from all property lines.
7. Must comply with all applicable provisions of the Valdese Animal Code (ex. cleanliness, odor).

(d) Keeping domestic pets. In all zones where dwelling units are allowed, domestic animals are allowed to be kept as household pets. Up to an aggregate of six (6) domestic animals per dwelling unit is permitted subject to restrictions set forth in Sections 8.2008 through 8-2012, and Section 8-2022 of the Valdese Code of Ordinance. Birds (canary, parakeet, etc.); amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish are excluded from the numerical limitations. (Ord. of 4/4/16)

Section 9-3062 through section 9-3070 reserved.

ARTICLE F

Off-Street Parking Requirements

Section 9-3071 Parking space to be required and permanent.

(a) Off-street parking space shall be provided in accordance with this Article in all districts, except the B-1 Central Business District, the function of which makes it impractical to impose such requirements.

(b) The off-street parking space required by this division shall be permanent space and shall not be used for any other purpose.

(c) Each parking space shall be:

(1) Angle parking: thirty (30) degree, forty-five (45) degree, sixty (60) degree or ninety (90) degree: minimum nine (9) feet by eighteen (18) feet; or

(2) Parallel parking: minimum seven (7) feet by twenty-two (22) feet. On State maintained roads, an eleven (11) foot lane width is recommended.

(3) The parking standards are for one vehicle, exclusive of adequate egress and ingress, drives, maneuvering space and landscaping.

(d) Minimum aisle widths shall be according to the angle of parking as follows:

Angle of Parking	Minimum Width of Aisle
0 (parallel)	12 feet
30	12 feet
45)	12 feet
60	16 feet
90	24 feet

(e) Off-street parking spaces shall not be located in such a manner that parked cars will extend onto a public street or sidewalk.

(f) Off-street parking areas shall not be permitted within the front yard in the B-1 Zoning District.

(g) Off-street parking areas shall be setback at least ten (10) feet from any public street.

(h) Required off-street parking spaces for any use shall be located no more than four hundred (400) feet from the use they are intended to serve. This standard does not apply to parking spaces for auditoriums, stadiums, assembly halls, gymnasiums, hospitals and other places of assembly. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3072 Use of parking lots permitted.

(a) The required parking spaces for any number of separate uses may be combined in one lot but the required space assigned to one use may not be assigned to another use at the same time, except that one-half ($\frac{1}{2}$) of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at nights or on Sundays.

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(b) No portion of any street right-of-way shall be considered as fulfilling or partially fulfilling the area requirements for off-street parking required by the terms of this chapter.

(c) Parking in one zoning district in connection with the principle use in another zoning district is permitted so long as all requirements of Article F, Off-Street Parking are met.

(d) If parking areas are lighted, the lighting fixtures shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Light standards shall not exceed thirty (30) feet in height and the light direction angle shall not exceed forty-five (45) degrees from vertical. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3073 Enforcement.

(a) Each application for a zoning permit or certificate of occupancy shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress between such space and a street. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this chapter are met.

(b) The certificate of occupancy of the use of any structure or land where off-street parking space is required shall be withheld by the zoning enforcement officer until the provisions of this chapter are fully met. If at any time such compliance ceases, any certificate of occupancy which has been issued for the use of the property shall immediately become void and of no effect. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3074 Schedule of parking spaces.

Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following types of property uses as follows:

Use Classification	Parking Space Requirement
Use Classification	Parking Space Requirement
Residential	2 spaces for each dwelling unit
Commercial	1 space for each 500 square feet of gross floor area
Industrial	1space for each 500 square feet of gross floor area
Office	1 space for each 500 square feet of gross floor area
Warehouse	1 space for each 4,000 square feet of gross floor area
Civic (that is, churches, fraternal organizations, etc.)	1 space for each 500 square feet of gross floor area
High schools or colleges and universities campuses (auditoriums, stadiums, gymnasiums, assembly halls)	1 space for each 10 fixed seats and 1 space for each 10 moveable seats in the largest assembly area

(Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3075 Required loading and unloading.

(a) Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public right-of-way. Such space shall have access to an alley or street. For the purposes of this section, an off-street loading space shall have a minimum dimension of twelve (12) feet by forty (40) feet and overhead clearance of fourteen (14) feet in height above the alley or street grade.

(b) Off-street loading and unloading shall be permanently maintained by the owners and occupants of the following types of property uses on the basis indicated:

(1) Retail operations: One (1) loading space for each five thousand (5,000) square feet of gross floor area or fraction thereof.

(2) Wholesale and industrial operations: One (1) loading space for each ten thousand (10,000) square feet of gross floor area or fraction thereof. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3076 Parking lot design requirements.

Off-street parking areas should be designed to create a safe and comfortable passage for the pedestrians. All off-street parking lots, including exits, entrances, drives and parking areas shall:

(a) Be designed to allow for traffic movement in accordance with generally accepted geometric design principles.

(b) Have physical access to a public street.

(c) Be so designed that storm water runoff from the parking area does not create erosion, flooding, or other nuisance condition or hazard, on the parking area property or on adjoining properties or roadways. Wherever practicable, runoff shall be directed into existing storm water conveyances, such as ditches, curbs, and storm sewers. In no case shall runoff be directed onto adjoining properties in locations that previously did not receive runoff.

(d) Off-street parking areas, loading, egress and ingress, and maneuvering space shall be paved with asphalt or concrete. Any parking area not paved at the time of adoption of this ordinance shall be allowed to continue as such until an expansion of the building or parking area occurs. At such time, the parking area must be paved and meet current landscaping requirements.

(e) Be maintained as long as the use which it serves exist. Each parking space shall be marked and maintained.

(f) Unless otherwise required by these regulations, all off-street parking with more than ten (10) automotive vehicles that adjoins any plot zoned or used for single family residential purposes, shall be screened with landscaped devices in accordance with 9-3077.5 to protect residences from light, glare, noise and fumes.

(Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3077 Landscaping of parking area.

(a) The landscaping requirements of this section shall apply to land, public and private, designated as multi-family, recreational, institutional, industrial or commercial land uses, which is required to have or provide forty (40) or more parking spaces. All those multi-family, recreational, institutional, industrial and commercial land uses which are required to have one (1) to thirty-nine (39) spaces must comply with the street yard requirements only. All parking areas, regardless of size shall meet buffer requirements outlined in Section 9-3077(5).

(b) Requirements and specifications:

(1) Parking area landscaping requirements of this section are as follows:

a. Landscaping shall be placed in a manner which meets the intent of this chapter and shall be maintained.

b. Any fraction of requirements shall be rounded up to the next whole number.

c. Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.

d. Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one (1) tree retained.

e. When using an existing tree, the area under the dripline (maximum extension of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.

f. If an existing tree dies, it must be replaced with two (2) trees during the next planting season.

g. If any vegetation dies, replacement is required within the next planting season.

(2) Landscaping requirements for interior areas of parking areas: (Interior areas are defined as the areas within the property used for vehicular storage, parking or movement).

a. Landscaped planting areas are to be located within or adjacent to the parking area as tree islands, at the end of parking bays, inside medians, or between rows of cars.

b. There shall be one (1) large shade tree for every two thousand (2,000) square feet of total parking area.

c. There shall be one shrub for every one thousand (1,000) square feet of total parking area. Shrubs must be eighteen (18) inches tall at planting and reach a minimum height of thirty (30) inches in three (3) years.

d. All trees and shrubs are to be planted within a landscaped planting area not less than one hundred sixty-two (162) square feet in area.

e. No vehicular parking space shall be further than fifty (50) feet from a planting area.

f. No more than fifty percent (50%) of the trees and/or shrubs shall be deciduous.

(3) Landscaping requirements for street yards of parking areas: (Street yards are defined as the area between the public right-of-way and interior area).

a. Street yards are required to be a minimum of ten (10) feet in width.

b. One (1) large shade tree is required every fifty (50) feet or one (1) small tree is required every twenty-five (25) feet along the street frontage.

c. Shrub beds (fifty (50) square feet minimum and a minimum of ten (10) shrubs per shrub bed) are required every forty (40) feet along the street frontage. Berms may be used instead of shrubs with the following stipulations:

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1. Berms must be the required height of shrubs with no more than a 3:1 slope;
2. Shorter shrubs may be used in combination with berms as long as the required total height is met;
3. Berms must be capped or topped with groundcover vegetation;
4. Berms shall be grassed;
5. Berms must occupy sixty percent (60%) of the frontage area;
6. Fences may be used in combination with berms as long as the fence is compatible in materials and color to the building and is not more than forty percent (40%) of the required height.

(4) Tree and shrub specifications:

a. "Tree" as used herein means any tree, evergreen or deciduous, whose mature height of its species can be expected to exceed fifteen (15) feet for a small tree and thirty-five (35) feet for a large tree (except in cases where this would require the planting of incompatible species with the surrounding environment, such as overhead utility lines, then acceptable species may be used). The tree, existing or planted, shall be at least eight (8) feet in height and six and one-quarter (6-1/4) inches in circumference (two (2) inches in diameter) measured at one-half (1/2) foot above grade for newly planted trees and measured at four (4) feet above grade for existing trees.

b. Each shrub shall attain a minimum of thirty (30) inches in height within three (3) years of planting. All shrubs shall be a minimum of eighteen (18) inches tall when planted. All shrubs planted on berms may have lesser height provided the combined height of the berm and plantings after three (3) years is at least thirty (30) inches in height.

(5) Abutting property landscaping requirements:

a. Any non-residential use located or developed on property abutting any residential district, unless separated by a public street or rail right-of-way, shall provide landscaping as outlined in Sections 9-3046, 9-3046.1 and 9-3046.2 Buffers. Landscaping shall be provided even if the abutting residentially zoned property is vacant. A buffer shall be provided along the full length of any common property line and shall be maintained as long as the conditions requiring the screening exist.

b. Screening for any parking area regardless of use or zoning district shall meet the requirements of Sections 9-3046, 9-3046.1, and 9-3046.2. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3078 Dumpsters/trash containers.

Dumpsters and trash containers shall meet all the requirements of the solid waste ordinance (Part 4, Chapter 2 of this code) as adopted by the town. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3079 Compliance with stormwater and erosion control standards.

Parking areas constructed or improved under this article shall comply with all applicable stormwater and erosion control standards adopted by the town. (Ord. of 1/10/05; Ord. of 6/5/06; Ord. of 12/6/10)

Section 9-3080 reserved.

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ARTICLE G
Manufactured Homes and Manufactured Home Parks

Section 9-3081 General provisions.

Because of the use, transportability, and manner of construction of manufactured homes and because of the susceptibility of the manufactured homes for use in high density concentrations, it is necessary to regulate manufactured homes and manufactured home parks to ensure that their occupants have access to an appropriate, safe, sanitary and attractive living environment. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3082 Definitions.

For the purpose of this article, a “manufactured home” and “manufactured home park” are defined as follows:

(a) Manufactured home: A structure designed for living or sleeping purposes, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

(1) Class A Manufactured Home (multi- section/double-wide). A manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a multi-section unit.

(2) Class B Manufactured Home (single-wide). Class B single-wide manufactured home that meets or exceeds the construction standards established by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and is a single-wide unit.

(b) Manufactured home park: Any existing lot or parcel on which two (2) or more manufactured homes are used, leased or rented or intended to be used, leased or rented for occupancy. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3083 Location of manufactured homes.

(a) After the effective date of this chapter, no manufactured home shall be permitted in any district for any use other than living or sleeping purposes.

(b) Manufactured homes are permitted only in the R-8 District, and must comply with each of the following:

(1) Individual manufactured homes are allowed by right in the R-8 Residential District, provided they meet the minimum lot and setback requirements of that district, and are placed on a permanent foundation.

(2) One (1) manufactured home may be parked or temporarily stored on any lot outside of a manufactured home park for a period not exceeding seventy-two (72) hours, provided no living quarters are maintained nor any business conducted therein while such manufactured home is so parked or temporarily stored.

(3) A temporary building, structure, including construction trailers for office use are permitted in conjunction with any permitted construction; provided permits for such use shall be issued for periods not to exceed twelve (12) months but may be renewed for

additional periods up to six (6) months if necessary for the completion of the construction in any zoning district.

(4) Existing manufactured homes shall not be replaced with another manufactured home unless it is located in the R-8 District. Class B manufactured homes shall not replace existing manufactured homes. Manufactured homes in the R-8 District may be replaced only by Class A manufactured homes. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3084 Provisions for manufactured homes.

(a) Class B manufactured homes shall not be permitted in the town.

(b) Class A manufactured homes shall be permitted only in the R-8 District. Only one Class A manufactured home shall be permitted on a lot unless it replaces an existing manufactured home in a manufactured home park.

(c) Manufactured homes shall be subject to the following requirements:

(1) If municipal utilities are not available, the well (if applicable) and septic tank (if applicable) must be approved by the Burke County Health Department.

(2) Class A manufactured homes shall contain at least one thousand, one hundred fifty (1,150) square feet of enclosed and heated living area.

(3) The pitch of the manufactured home roof shall have a minimum vertical rise of at least three (3) feet for each twelve (12) feet of horizontal run, and the roof shall be finished with a type of shingle that is commonly used in standard residential construction. The roof shall be the original roof of the structure as installed by the manufacturer.

(4) The exterior siding, for all manufactured homes, shall consist predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard; and the exterior siding shall be comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(5) Manufactured homes shall have at the front entrance either a deck or porch with steps. All other entrances shall have permanent steps. The minimum area for decks and porches shall be 100 square feet. Decks, porches and steps must be built in compliance with the North Carolina Building Code.

(6) All manufactured homes shall be placed with the front of the home running parallel to the street that provides access to manufactured home. On cul-de-sacs, manufactured homes shall be sited with the front of the home running parallel to the street providing access. Manufactured homes placed in manufactured home parks may be placed perpendicular to interior private streets.

(7) Manufactured homes shall have the entire perimeter of the home enclosed from the ground to the bottom of the structure in compliance with the following requirements:

- a. The underpinning must consist of brick, masonry, or concrete block with a stucco finish.
- b. Products and materials manufactured for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
- c. The underskirting shall be vented in accordance with the North Carolina Building Code.
- d. The underskirting must be installed within thirty (30) days after the final inspection date by the Burke County Building Inspections.

(8) The manufactured home's footings shall meet the requirements set forth in the North Carolina Building Code.

(9) The towing tongue, wheels, axles and transporting lights shall be removed upon final placement of the manufactured home. If the tongue cannot be removed, it must be underpinned and screened with shrubbery.

(10) The manufactured home shall have been constructed within ten (10) years of the date of the permit application. Proof of the age of the home such as a bill of sale, title, or certified appraisal must be provided at the time the zoning permit is issued. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3085 Provisions for existing manufactured home parks.

(a) The creation of manufactured home parks after the adoption of this chapter is not allowed in the town. Existing manufactured home parks at the time of adoption of this chapter may remain subject to the requirements of this section, but neither the size of the parcel on which the existing manufactured home park is located nor the number of manufactured homes located in the manufactured home park shall be increased.

(b) In manufactured home parks, manufactured homes may be replaced within one hundred eighty (180) days of removal of the home by only Class A manufactured homes that meet the provisions of Section 9-3084 and other applicable provisions.

(c) Manufactured homes, because of their use, transportability, manufacture and manner of construction, location and susceptibility for use in high density concentration both as units and persons, tend to place inhabitants of manufactured homes in an unfavorable position to obtain services necessary for a safe and healthful living environment. It is the purpose of this section to provide protection for the public against unwise and hazardous existing manufactured home parks and provide a reasonably safe and sound environment for manufactured home park inhabitants and to:

- (1) Promote public health, safety, welfare and orderly residential development;
 - (2) Ensure that every individual manufactured home lot (stand) has safe and efficient vehicular access for residents of the home, emergency vehicles, utility and service vehicles and others needing access to the park;
 - (3) Provide adequate buffering and screening to ensure privacy and protection for both the residents in the park and adjacent property owners;
 - (4) Provide sufficient open space for outdoor uses essential to the manufactured home;
 - (5) Ensure the furnishing of adequate water supply and sewage disposal systems;
 - (6) Provide an acceptable environment for small communities of manufactured homes;
- and
- (7) Provide a process by which existing manufactured home parks will be improved to meet the minimum level of safety, sanitation, comfort and privacy.

(d) All persons operating a manufactured home park that existed at the time of adoption of this chapter, must submit an improvement proposal for the park (as provided herein) to be reviewed by the Planning Board and approved by the Town Council. Upon approval of the improvement proposal by the Town Council, alterations to the park as required may begin. The proposal shall indicate the manner in which the requirements listed herein will be met.

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(1) Phased schedule for improvements. The improvement proposal shall conform to the improvement requirements listed herein within the following phased time schedule.

a. Within six (6) months of notification, the property owner shall submit and have approved an improvement proposal, including schematic plans, for upgrading the park.

b. Within one (1) year of adoption of this chapter, all roads shall be stabilized with packed gravel if not already paved.

c. Within three (3) years of adoption of this chapter, all other requirements listed herein shall be complied with, including the paving of roads

(2) Contents of the improvement proposal. Application to improve and upgrade a manufactured home park shall be made to the Planning Director. The application shall consist of schematic plans and documentation that include at least the following:

a. Name of the manufactured home park, name and address of owner and operator.

b. A manufactured home park design drawn onto a plat at a scale that can be reasonably interpreted by the town.

c. Date, north arrow, and scale.

d. Boundaries of the manufactured home park property to include intersections and adjacent property with the boundaries of the manufactured home park property.

e. The location of the following utilities: sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for the continued water supply and/or sewage disposal must be accompanied by letters of approval by appropriate Town, County and State authorities.

f. Existing streets in the park, right-of-way and proposed pavement widths. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval if required by the North Carolina Department of Transportation.

g. Outline of all existing home spaces and buildings within the manufactured home park property with lot numbers indicated.

h. Location of parking bays, walkways, service and accessory buildings, utility easements, utility poles, and buffer and screening areas.

i. Method of sewage disposal in accordance with existing town, county and state regulations.

j. Method of water supply in accordance with existing town, county and state regulations.

k. Plan of electric lighting.

l. Development standards.

(3) Required improvements. The following improvements to the manufactured home parks shall be completed within three (3) years of the date of adoption of this chapter:

a. All manufactured homes that are placed in manufactured home parks shall have the entire perimeter of each home enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the state regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to, the following list: brick masonry, concrete block masonry covered with stucco; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the

purpose of underpinning shall be installed in accordance with the manufacturer's specifications.

b. A densely planted buffer strip consisting of evergreen trees, at least three (3) feet in height at planting, shall be planted along the rear and side property lines of the manufactured home park. No such buffer shall extend into a street right-of-way. The park owner and operator shall be responsible for replacing dead or destroyed trees.

c. Each home space of the manufactured home park shall be at least eight thousand (8,000) square feet. Areas used for interior streets shall not be used in calculating the required minimum area for each home.

d. All manufactured homes manufactured prior to July 15, 1976 shall be removed from the manufactured home park.

e. A minimum distance of twenty (20) feet shall be provided between each manufactured home.

f. Manufactured homes shall have at the front entrance either a deck or porch with steps. All other entrances shall have permanent steps. The minimum area for decks and porches shall be one hundred (100) square feet. Decks, porches, and steps must be built in compliance with the North Carolina Building Code.

g. All interior streets shall be paved according to North Carolina Department of Transportation specifications for a public street.

h. A paved turning circle shall be provided at the end of each dead end street. The diameter of the paved area shall be at least eighty (80) feet.

i. Two (2) paved parking spaces shall be provided for each manufactured home. Each parking space shall have a length of eighteen (18) feet and a width of nine (9) feet.

j. An identification sign stating the name and address of the manufactured home park shall be erected at the main entrance. Such sign shall not exceed sixteen (16) square feet in surface area.

k. The owner or operator shall display house or lot numbers for each home in the park. The house or lot number may be attached to the home or posted at the front of the home. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3086 through section 9-3090 reserved.

ARTICLE H Sign Regulations

Section 9-3091 Purpose.

The purpose of this section is:

- (a) To maintain public safety and traffic safety by ensuring that signs are properly designed, constructed, installed, and maintained;
- (b) To minimize the distractions and obstruction of view that contribute to traffic hazards and endanger public safety;
- (c) To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage;
- (d) To permit the effective use of signs as a means of commercial and noncommercial communication without dominating the visual appearance of the areas in which they are located; and
- (e) To minimize the possible adverse effect of signs on nearby public and private property. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3092 Applicability.

- (a) Except as otherwise provided in this chapter, it shall be unlawful to construct, enlarge, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the town.
- (b) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3093 General provisions.

The following provisions shall apply to all signs:

- (a) Construction standards. All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- (b) Electrical standards. All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.
- (c) Maintenance of signs. All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.
- (d) Content. Content of message, commercial or non-commercial, is not regulated by this chapter.
- (e) Obstruction. No sign shall be placed so as to obstruct the clear sight triangle at a street intersection. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3094 District classification.

For purposes of this article, zoning districts are classified as follows:

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R-12 (Residential)	Residential
R-12A (Residential)	Residential
R-8 (Residential)	Residential
FP (Floodplain Overlay)	Mixed Use
O-I (Office-Institutional)	Mixed Use
B-1 (Central Business)	Mixed Use
B-2 (General Business)	Commercial
M-1 (Manufacturing)	Commercial

(Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3095 Sign types.

Sign types are defined as follows:

(a) Wall mounted signs. One or a combination of the wall sign types below may be used on a building. Wall sign area is the total of the square footage of all wall signs associated with a business or structure.

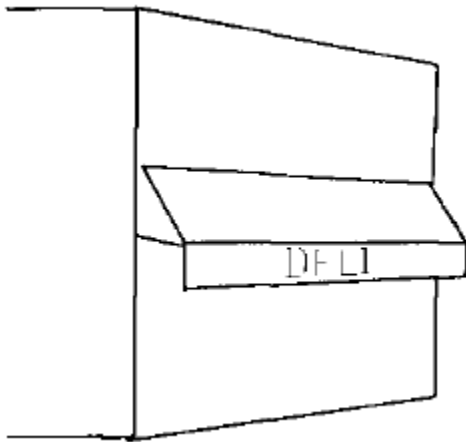
(1) A flush wall sign is mounted or applied directly to the building wall, generally on the fascia. It may in no instance extend above the parapet; in the residential and mixed use districts, it must be located below the parapet.



(2) A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires nine (9) or more feet of vertical clearance from the

ground. It is most appropriately used along pedestrian-oriented streets to identify attached or closely spaced shops, restaurants, and service businesses. Only one hanging sign is permitted per building or business bay (in a multi-tenant building). The sign face area does not include the area of the bracket. A hanging sign may project no more than five (5) feet from the building wall. It may project up to five (5) feet over a sidewalk in a town maintained right-of-way (or state right-of-way if permitted). However, in any case the sign shall not be closer than three (3) feet to a power or other utility line or the outside edge of street pavement.

- (3) A canopy or awning sign is sign copy applied directly onto a canopy or awning.

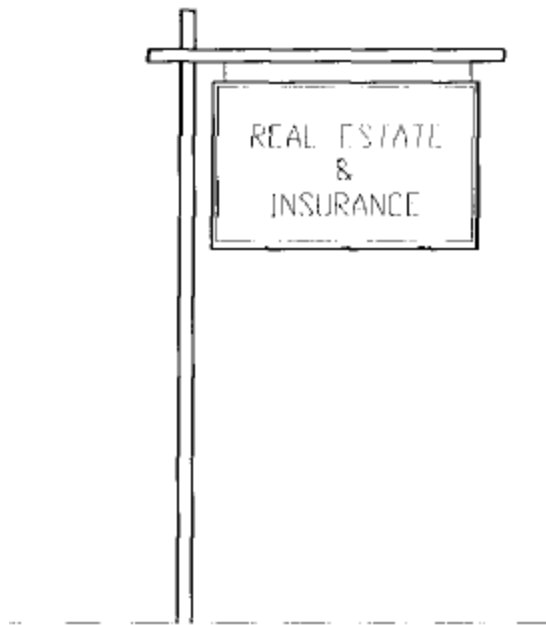


- (b) Ground mounted signs. Ground mounted signs are defined as follows:

(1) A monument sign is mounted generally flush with the ground plane. It may not be mounted on a pole or pylon, nor raised by mounting on a man-made berm, wall, or similar structure. Supporting elements may not exceed three (3) feet in height and are included in measurement of sign height. All signs shall be set back at least ten (10) feet from any property or right-of-way line.



(2) A raised sign may hang from a pole and beam frame as illustrated below, or be placed within a frame mounted on up to two supporting poles. All signs shall be set back at least ten (10) feet from any property or right-of-way line.



(Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3096 Sign measurement.

(a) Sign face area: the area within a single, continuous perimeter enclosing the characters, lettering, logos, illustrations, and ornamentation, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed.

(b) Sign height: the distance from the ground plane beneath the sign to the highest point of the sign's frame. Ornamentation atop signs, such as small caps and spires, are not included in the height measurement. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3097 Permanent on-premise signs requiring a permit.

Section 9-3097.1 On-premise signs.

On-premise signs are allowed, as indicated in the chart below:

INSTITUTIONAL FACILITIES IN ANY DISTRICT

Wall Mounted Sign

1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet

Ground Mounted Sign

(only monument style permitted)

Maximum number: 1 per street front

Maximum area: 50 square feet

Maximum height: 10 feet

ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A SINGLE-FAMILY HOUSE (B-1, O-I, FP)

Wall Mounted Sign

For single-story buildings, 1 square foot of sign surface area for every linear foot of building

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Setback: Must be setback at least 10 feet from any right-of-way or property line.

For the purpose of this section, institutional facilities include public schools, libraries, and buildings operated by the Town of Valdese.

frontage up to a maximum of 50 square feet

For multi-story buildings, 1.5 square feet of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet

Ground Mounted Sign

(only monument style permitted in B-1)

Maximum number: 1 per street front

Maximum area: 32 square feet

Maximum height: 8 feet

Setback: must be setback at least 10 feet from any right-of-way or property line.

Note: Ground mounted signs are not permitted in the B-1 Central Business District

ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT SINGLE-FAMILY HOUSE (B-2, M-1)

Wall Mounted Sign

1 wall sign shall be permitted for each principal building frontage or storefront of an individual bay or store. Wall signs shall be limited to 1 square foot per linear foot of principal building front facade, not to exceed 120 square feet for any single sign. Each secondary business is allowed secondary business sign (defined in Section 9-3106), up to a maximum area of 60 square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed ten percent (10%) of the applicable wall face area.

Ground Mounted Sign

(only monument style permitted)

Maximum number: 1 per street front

Maximum area: 50 square feet

Maximum height: 12 feet

Setback: must be setback at least ten (10) feet from any right-of-way or property line.

PLANNED DEVELOPMENT ENTRANCE SIGN

Maximum number: 1 per street front;

2 sign faces may be used with a wall, fence, or other architectural entrance feature

Maximum area: 24 square feet

Maximum height: 8 feet

(permitted for all-residential, mixed use, and non-residential projects of 10 acres or more)

Limited to name and/or logo

(Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

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Section 9-3097.2 Permanent off-premise signs limited to non-commercial public service directional signs.

(a) For the purpose of directing the public-at-large to non-commercial community facilities of general interest, permanent off-premise directional signs may be erected in addition to signs otherwise permitted in these regulations.

(b) Non-commercial public service directional signs are permitted subject to the following standards:

(1) The community facility is open to the general public and operated by a non-commercial civic, charitable, religious, community, or similar organization.

(2) No more than two (2) directional signs shall be erected for each facility.

(3) Signs may not exceed four (4) square feet in area or five (5) feet in height.

(4) Signs may be placed no more than one mile from the subject property.

(5) Along state roads, such signs shall be located outside of the right-of-way or farther than eleven (11) feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this chapter.

(6) Along town maintained roads, such signs shall be located outside of the right-of-way or farther than eleven (11) feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall not violate the sight distance triangle requirements of this chapter.

(7) No sign shall be placed on private property without the written consent of the property owner on the permit application.

(8) Every non-commercial public service directional sign shall be separated by a distance of four hundred (400) feet from any other such sign on the same side of the street, and by a distance of two hundred (200) feet from any other such sign on the opposite side of a street. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3097.3 Subdivision, multi-family, and manufactured home park signs.

At any entrance to a residential subdivision, multi-family development or manufactured home park, a maximum of two (2) signs identifying the subdivision, development or park are permitted. The sign face area of each sign shall not exceed sixteen (16) square feet. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3097.4 Electronic message signs.

Electronic message signs are permitted as a component of otherwise permitted on premise signage subject to the following regulations:

(a) Electronic message signs are prohibited in all zoning districts, unless used in connection with the local government or public school facilities.

(b) Graphic images are prohibited.

(c) Each message on the sign must be displayed for a minimum of eight (8) seconds.

(d) The message must be complete during the duration of the display, without continuation in content to the next image. Transitions from one (1) static message to the next shall appear instantaneous without the appearance of movement of any kind.

(e) Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating or varying of light intensity.

(f) Each static message display shall be limited to one (1) monochrome color display on a solid black background at any one (1) time have a medium resolution true pixel pitch of no greater than twenty (20) mm. Full color display is permitted provided such signs have a high resolution true pitch of ten (10) mm or less.

(g) The level of direct or indirect illumination on the vertical surface of any electronic message sign shall not exceed three (3) foot candles for wall mounted and two (2) foot candles for ground mounted signs.

(h) The electronic message sign shall not exceed fifteen (15) square feet or seventy (70) inches diagonally.

(i) Electronic message display signs must meet all other requirements for on premise signs.

(j) Limited exceptions.

(1) Time, date and temperature (TDT) signs display area shall not exceed five (5) square feet per face, and shall not be included in the allowable sign area, provided it is collocated within an existing sign.

(2) Petroleum digital price signage.

a. The display area shall not exceed ten (10) square feet, and illuminated numerals shall not exceed twelve (12) inches in height.

b. Signs shall be collocated on an approved ground mounted or pole mounted sign.

c. The digital display area shall not be calculated as part of the total allowable display area.

d. The sign may contain single-faced or double-faced display areas.

(3) Lottery signs shall be limited to a maximum of two (2) square feet and subject to the requirements outlined in this section. Lottery signs shall not be calculated as part of the allowable display area. (Ord. of 10/5/15)

Section 9-3098 Temporary signs requiring a permit.

The following temporary signs shall be allowed subject to the standards below, in lieu of on-site real estate or construction signs. Temporary planned development signs, provided:

(a) Only one (1) primary sign and two (2) secondary signs shall be allowed per street front of development.

(b) The maximum sign face area of a primary sign shall not exceed thirty-two (32) square feet; height of ground mounted signs shall not exceed six (6) feet.

(c) The maximum sign face area of secondary signs shall not exceed twelve (12) square feet; height of ground mounted signs shall not exceed six (6) feet.

(d) Only one (1) permit shall be required for all temporary planned development signs for each planned development. Permits shall be valid until a project is completed or two (2) years, whichever comes first. Completion shall be evidenced by the issuance of all certificates of occupancy for a development by the Building Inspections Department. If a project is not completed in two (2) years, a new permit must be obtained. However, in no instance shall

more than two (2) permits be issued for a development. Additional permits shall not allow secondary signs. All secondary signs shall be removed when the first permit issued expires.

(e) Temporary directional signs within a planned development, but not visible from the road(s) fronting the overall development, shall be permitted so long as such signs do not exceed twelve (12) square feet in sign area, six (6) feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3099 Temporary off-premise signs requiring approval.

The following temporary off-premise signs are permitted subject to the standards below.

(a) Temporary off-premise signs or banners for special community events, open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided:

(1) At least five (5) business days before signs are to be posted, the designated representative of the sponsoring group shall provide a sign installation and removal plan for review by the Zoning Enforcement Officer, who shall grant written permission for signs to be posted if the standards below are met.

(2) Signs or banners shall be located outside of the public right-of-way or farther than eleven (11) feet from the edge of any public street, whichever distance from edge of pavement is greater; signs shall respect the sight distance triangle.

(3) Signs or banners may be posted up to fourteen (14) days before the event and must be removed within seven (7) days following the event.

(4) Every temporary off-premise sign or banner shall be separated by a distance of four hundred (400) feet from any other such temporary off-premise sign on the same side of a street, and by a distance of two hundred (200) feet from any other sign on the opposite side of a street.

(5) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner.

(b) Real estate signs not exceeding a total of two (2) square feet in sign face area shall be permitted.

(c) Temporary cross-street banners for community events as may be approved by the Town Manager and installed by town personnel, according to policies established by the Town Council. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3100 Signs permitted without a permit.

Notwithstanding the above, changing or replacing the permanent copy on a lawful sign shall not require a permit provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

(a) The following types of signs are exempt from permit requirements and allowed in all zones, but shall be in conformance with all other requirements of this chapter.

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(1) Historical markers erected by a government body, memorial signs, plaques, or grave markers.

(2) Public interest signs.

(3) Public information kiosks on public or private property, subject to design approval by the Town Council and written permission of the owner of property upon which the kiosk is to be placed.

(4) On premises directional and instructional signs not exceeding six (6) square feet in area, unless such sign is a monument sign, in which case it may not exceed nine (9) square feet. Maximum height: four (4) feet.

(5) Identification signs not exceeding two (2) square feet in area, not of a commercial nature and bearing only property identification numbers and names, post office box numbers and names of occupants of the premises. Maximum height: four (4) feet.

(6) Window signs shall be allowed on the inside or outside window glass of non-residential properties provided that they cover an area not exceeding fifty percent (50%) of the window or glass. Open/closed signs shall be included in the total window sign area.

(7) Incidental signs used in conjunction with equipment or other functional elements of a use or operation. These shall include, but are not limited to, drive-thru window menu boards, signs of automatic teller machines, gas pumps, express mail boxes, vending machines or newspaper delivery boxes.

(8) Official flags on permanent poles, emblems or insignia of government, corporation, professional, fraternal, civic, religious organizations.

(9) Campaign or election signs provided that:

a. Each sign shall not exceed sixteen (16) square feet in area or six (6) feet in height.
b. All such signs shall be removed within seven (7) days after the election for which they were made.

c. Signs may be erected no earlier than sixty (60) days prior to the election date.

(10) Real estate signs, other than the temporary signs described in Section 9-3098.

a. Signs advertising a single family home or lot, a duplex, triplex, or quad, or an individual unit within an attached housing development shall not exceed six (6) square feet. Maximum height: four (4) feet.

b. Signs advertising all other uses shall not exceed one (1) square foot for every five (5) linear feet of frontage of the advertised property, up to a maximum sign face area of thirty-two (32) square feet and maximum height of six (6) feet.

c. Only one (1) sign per street front of the advertised property shall be erected.

d. Properties having a continuous frontage in excess of eight hundred fifty (850) linear feet may be allowed an additional sign so long as such sign is no closer than eight hundred fifty (850) feet from another real estate sign on the property.

e. Signs shall not be illuminated.

f. Signs shall be removed within seven (7) days after the sale is closed or rent or lease transaction is finalized.

(11) Construction signs, other than temporary planned development signs, Section 9-3098, provided:

a. Signs located on single family lots or duplex, triplex, or quad lots shall not exceed six (6) square feet in area. Rider signs not exceeding two (2) square feet in area shall be permitted in addition to the six (6) square feet. Maximum height: four (4) feet.

b. Signs for all other uses shall not exceed one (1) square foot for every five (5) linear feet of frontage of property under construction, up to a maximum sign face area of thirty-two (32) square feet and a maximum height of six (6) feet.

c. Signs are confined to the site of construction.

d. Only one (1) sign per street front of the property under construction shall be erected.

e. Signs shall not be illuminated.

f. Signs shall be removed within seven (7) days after the completion of a project.

(12) Temporary farm products signs provided:

a. Signs are located on the premises where the products are sold in conjunction with a bona fide farm use.

b. Signs shall not exceed thirty-two (32) square feet in area or six (6) feet in height.

c. Only one (1) sign shall be erected.

d. Signs shall be removed within seven (7) days of the termination of sale activities.

(13) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, provided:

a. No more than one (1) sign per street front shall be permitted per event.

b. Signs shall be located on the property on which the event will occur.

c. Signs shall not exceed thirty-two (32) square feet in area or six (6) feet in height.

d. Signs shall be erected no sooner than fourteen (14) days before and removed seven (7) days after the event.

(14) Temporary banners in commercial and mixed use districts, provided:

a. Only one (1) banner per establishment shall be allowed at a time.

b. All banners shall be attached in total to a building wall or permanent canopy extending from a building.

c. No paper banners shall be allowed.

d. Banners shall be erected for a period not to exceed two (2) weeks.

e. No more than six (6) such signs per establishment shall be erected within a calendar year.

f. No banner shall extend above the second occupiable floor level of a building.

g. Banners displayed at the time of adoption of this chapter are not excluded from the provisions above.

h. All banners shall be considered temporary banners.

(15) Public service and advertising signs in association with athletic fields. Signs may be attached to the interior face of any fence which encloses or partially encloses an athletic playing field upon the property of a school or public park subject to the following conditions:

a. No sign face area shall be visible from any public street or from any abutting property in a residential or mixed use district.

b. No sign shall extend above the top of the enclosing fence.

(16) Corner directory signs provided:

- a. Signs are owned by the town.
 - b. The town is responsible for the installation, maintenance and removal of signpost and panels.
 - c. The town shall specify the size, material, color, letter height, and similar criteria for each panel on the corner directory sign.
 - d. The town reserves the right to remove panels which are deteriorated or damaged or when they may affect public safety, or which direct persons to uses or businesses no longer in existence.
 - e. The town may collect fees for the installation and maintenance of the sign panels.
 - f. The town shall determine when and where corner directory signs may be placed.
- (17) Open/closed signs:
- a. Illuminated or non-illuminated.
 - b. Shall not exceed two (2) square feet in surface area. (Ord. of 1/10/05; Ord. of 1/5/09; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3101 Master signage programs.

Master signage programs provide latitude to develop appropriate signage designs for new or existing areas with special unifying features. Master signage programs require approval by the Town Council following review and recommendation by the town planning board. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3101.1 Planned development flexibility option.

(a) For the purpose of providing flexibility and incentives for coordinated, well-designed sign systems for large-scale development, special provisions varying the standards of this chapter may be approved by the Town Council.

(b) The planned development flexibility option is initiated by the developer by submission of a master sign program to the Planning Director, who shall first place the request on the agenda of the Planning Board for a recommendation, and then on the agenda of the Town Council for approval, subject to the following:

(1) The development shall be a planned residential, nonresidential, or mixed use development, ten (10) acres or greater in size; a hospital or other large scale institutional complex; a large scale cultural, civic or recreational facility; or a similar large scale development.

(2) A master sign program that includes the following information is submitted:

- a. Detailed designs of all proposed signs including the size, height, copy, materials, and colors of such signs.
- b. Proposed number and location of signs.
- c. Sign illumination plans.
- d. Plans for landscaping or architectural features to be used in conjunction with such plans.

(3) The proposed signs meet the following criteria:

- a. All signs are coordinated in terms of design features.

- b. The maximum size of detached signs is not increased by more than twenty-five (25%).
- c. The number of detached signs along a street frontage does not exceed three (3).
- d. The maximum height of a detached sign does not exceed twelve (12) feet.
- e. Multi-information directional signs are no greater than sixteen (16) square feet and are located in the interior of a development.
- f. Changeable copy highlighting special events on signs for cultural, civic, or recreational facilities shall not exceed twenty-five (25%) of the sign face area of a sign. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3102 Prohibited signs.

The following signs are prohibited in all zoning districts:

- (a) Signs extending into the public right-of-way, attached to utility poles, street signs, or placed on Town owned or maintained property; other than those signs approved by the Town of Valdese or the North Carolina Department of Transportation may be removed;
- (b) Roof signs;
- (c) Portable signs;
- (d) Flashing, fluttering, swinging, rotating and electronic scrolling signs; provided, however, electronic time and/or temperature signs are permitted;
- (e) Signs that by their position, illumination, size, shape or color, obstruct, impair, obscure, or interfere with traffic signs, signal devices, or visibility at intersections (see Section 9-3038);
- (f) Vehicular signs as defined in Article H of this chapter;
- (g) Off-premise signs, including outdoor advertising signs. See Sections 9-3097.2 and 9-3099, special exceptions for certain non-commercial signs. (Example: directional signs, real-estate directional signs, etc.). Town-owned directional signs are not prohibited by this article;
- (h) Obsolete signs: signs that do not comply with the provisions of this chapter and identify or advertise a use which has ceased operation for one (1) year or more. Obsolete signs shall be removed;
- (i) Signs which use a series of two (2) or more signs placed in a line parallel to a street or highway right- of-way, or similar fashion, all carrying a single advertising message, part of which is contained on each sign;
- (j) Other signs not expressly allowed by this chapter;
- (k) Any sign that incorporates a television screen, a computer screen, electronic images, or electronic characters that does not meet the standards for electronic message display signs;
- (l) Any illuminated tubing is not permitted, including but not limited to those outlining property lines, open sales areas, rooflines, doors, windows, landscaping, or the edges of wall, except for perimeter down-lighting that is shielded to illuminate open sales areas but no land outside those areas; and
- (m) Illuminated signs in any residential district, except as provided in Section 9-3097.2(a); and

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(n) Electronic message signs, unless expressly permitted by the ordinance. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3103 Application and issuance of sign permits.

Section 9-3103.1 Application.

Applications for permits, if required, shall contain or have attached the following information:

(a) The street name and street number of the building, structure or lot on which a sign is to be placed.

(b) Names, addresses, and telephone numbers of the applicant, owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the licensed contractor erecting or affixing the sign.

(c) If the applicant is not the owner or lessee of the lot on which the sign will be located, written permission from the property owner or a designated representative stating agreement that the sign may be erected on the parcel for which the permit has been applied shall be required.

(d) A site or plat plan of the property involved, showing accurate placement of the proposed sign, intended use(s) of the property, and zoning district designation.

(e) Two (2) blueprints or inked, scaled drawings of the plans and specifications of the sign to be erected or affixed as deemed necessary by the Zoning Enforcement Officer. Such plans may include but shall not be limited to details of dimensions, materials, copy, and size of the proposed sign. For wall signs, dimensions of the building wall on which the sign is to be affixed and the location and size of existing wall signs shall also be included.

(f) Address assignment. No permit for a sign shall be issued unless a street address has been assigned according to the requirements of the town or the Burke County 911 address ordinance, whichever is applicable.

(g) Other information as the Zoning Enforcement Officer may require to determine full compliance with this and other applicable codes. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3103.2 Issuance of permit.

Upon the filing of an application for a sign permit, the Zoning Enforcement Officer shall examine the plans and specifications, and, as deemed necessary, may inspect the premises upon which the sign is proposed to be erected or affixed. If the proposed sign is in compliance with all the requirements of this chapter and other applicable codes, a permit will be issued. Any permit issued in accordance with this section shall automatically become null and void unless the work for which it was issued has visibly commenced within six (6) months of the date of issue or if the work authorized by it is suspended or abandoned for one year. The applicant shall be responsible for obtaining a building or electrical permit from the Building Inspection Department when required by applicable local and state codes. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3103.3 Fees.

To obtain a sign permit, all fees, in accordance with the requirements of the permitting agency, shall be paid. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3103.4 Completion of construction.

The permit holder shall notify the town upon completion of construction and installation of any sign for which a permit is required. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3104 Unlawful cutting of trees or shrubs.

No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees, shrubs or other vegetation located:

(a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the town or other agency having jurisdiction over the streets.

(b) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done pursuant to the express authorization of the person owning the property where such trees or shrubs are located.

(c) In any areas where such trees or shrubs are required to remain under a permit issued under this chapter. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3105 Nonconforming signs.

Subject to the remaining restrictions of this section, nonconforming signs that were otherwise lawful on the effective date of this article may be continued provided they conform to the following provisions:

(a) No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign. Without limiting the generality of the foregoing, no nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition. Nor may illumination be added to any nonconforming sign.

(b) A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this article.

(c) If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed or replaced except in conformity with all the provisions of this article, and the remnants of the former sign structure shall be cleared from the land within thirty (30) days of destruction. For purposes of this section, a nonconforming sign is "destroyed" if it is damaged to the extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.

(d) The message of a nonconforming sign may be changed so long as this does not create any new nonconformities (for example, by creating an off-premise sign under circumstances where such a sign would not be allowed).

(e) If a nonconforming sign other than a billboard advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be considered abandoned and shall

be removed within thirty (30) days after such abandonment by the sign owner, owner of the property where the sign is located or other party having control over such sign.

(f) If a nonconforming billboard remains blank for a continuous period of one hundred eighty (180) days, that billboard shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be removed by the sign owner, owner of the property where the sign is located or other person having control over such sign. For purposes of this section, a sign is "blank" if:

(1) It advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted; or

(2) The message displayed becomes illegible in whole or substantial part; or

(3) The advertising copy paid for by a party other than the sign owner or promoting an interest other than the rental of the sign has been removed. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3106 Sign definitions.

For the regulation of signs according to this chapter, the following words and phrases shall be defined as specified below.

(a) Amortization. A provision requiring nonconforming signs to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

(b) Awning. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

(c) Building wall. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this chapter, the area of a wall will be calculated for only the first three (3) stories, or forty-five (45) feet in height of a building, whichever is less.

(d) Campaign or election sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.

(e) Canopy. A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or motor vehicles, or as a decorative feature on a building wall.

(f) Changeable copy. Copy that is or can be changed in the field, either manually or through mechanical means; for example, reader boards with changeable letters.

(g) Commercial message. A message placed or caused to be placed before the public by a person or business enterprise directly involved in the manufacture or sale of the products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.

(h) Copy. Any words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign display surface area.

(i) Farm product sales. Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

(j) Grade. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

(k) Linear frontage. The length of a property abutting a public right-of-way from one side lot line to another.

(l) Logo. A business trademark or symbol.

(m) Out parcel. A parcel of land associated with a shopping center or multi-tenant development, which is designated on an approved site plan as a location for a free standing structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, offices, restaurants, retail establishments, or combination of uses thereof, and adjoins the shopping center or multi-tenant development, or the parking and service drives associated with it, on any side adjacent to a public right-of-way.

(n) Parapet. A low wall encircling the perimeter of a flat building roof, generally used to screen roof-mounted mechanical equipment.

(o) Planned development. A tract of land under single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a definitely programmed series of development operations and according to an approved development plan (according to Article I).

(p) Premises. A parcel of real property with a separate and distinct identifying number shown on a recorded plat, record of survey, parcel map, subdivision map, or a parcel legally created or established pursuant to applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for the purpose of this chapter.

(q) Roof line. The highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

(r) Sight distance triangle. The triangular area formed by the point of intersection of two (2) street right-of-way lines and a point located along each right-of-way line at a distance of thirty-five (35) feet from the point of intersection.

(s) Sign. Any object, devise, structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious, or civic organizations; works of art which in no way identify an object, person, institution, organization, business, product, service, event or location by any means; or scoreboards located on athletic fields.

(t) Sign structure or support. Any structure that supports or is capable of supporting a sign.

(u) Sign types. The following are types of signs included in this chapter.

(1) Banner. A sign intended to be hung, with message or symbol applied to plastic or fabric of any kind, but excluding flags or emblems of any nation, organization of nations, state, city, or any fraternal, religious, or civic organization.

(2) Bulletin board. A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

(3) Business sign. A sign that directs attention to a business, to a product sold, manufactured, or assembled, or to services or entertainment offered upon the premises

where the sign is displayed; but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

(4) Campaign or election sign. A sign that advertises a candidate or issue to be voted upon on a definite election day.

(5) Canopy and awning signs. A sign attached to or painted or printed onto a canopy or awning. The permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

(6) Construction sign. A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

(7) Detached sign. Any sign that is not affixed or attached to a building and is securely and permanently mounted in the ground. Such sign may be a ground mounted sign, or monument sign.

(8) Directional or instructional sign. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance," "Exit," "Parking," "One-Way," or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

(9) Directory sign. A sign that identifies multiple uses in a planned development on a single sign; may be used for shopping centers, shopping streets or arcades, office complexes, schools, churches, institutional or business campuses, and similar large complexes which have a variety of tenants and/or uses.

(10) Electronic message sign. A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. Electronic message signs may be part of wall-mounted signs, ground mounted signs or window signs.

(11) Flag. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

(12) Flashing sign. A sign that uses an intermittent or flashing light source to attract attention.

(13) Ground mounted sign. A sign that extends from the ground or which has a support which places the bottom thereof less than three (3) feet from the ground.

(14) Government sign. Any temporary or permanent sign erected and maintained for any governmental purposes.

(15) Identification sign. A sign that displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

(16) Incidental sign. A sign used in conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through-window menu boards; signs on automatic teller machines, gas pumps, or vending machines; or newspaper delivery boxes.

(17) Memorial sign or plaque. A sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.

(18) Monument sign. A monolithic sign in which the bottom of the sign is flush with the ground.

(19) Nonconforming sign. Any sign that was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this chapter, and which fails to conform to all applicable standards and restrictions of this chapter.

(20) Off-premises sign. A sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

(21) On-premises sign. A sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

(22) Outdoor advertising sign. A type of sign, generally, but not always, consisting of a rigidly assembled sign, display, or devise, usually free standing, that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters. Such signs, commonly referred to as "billboards," are generally designed so that the copy or poster on the sign can be changed frequently and the advertising space is for lease.

(23) Planned development sign. A sign used in conjunction with an approved planned residential, office, business, industrial, or mixed use development.

(24) Portable or movable sign. A sign that is not permanently attached to the ground, a structure, or a building, and which can easily be moved from one location or another, for example, a sign on wheels.

(25) Projecting sign. A sign that is affixed to a building and supported only by the wall on which it is mounted; considered a wall sign for purposes of this chapter.

(26) Public interest sign. A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as warning and no trespassing signs.

(27) Real estate sign. A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

(28) Primary sign. The main or principal sign located on the premises.

(29) Roof sign. A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

(30) Secondary business identification sign. An auxiliary wall sign, the purpose of which is to identify a business which is housed in the same structure as the principal business, but which is clearly subordinate to, and has separate ownership, management, and operation from, the principal business which occupies the building.

(31) Secondary sign. A sign used in addition to a primary sign on a premises.

(32) Temporary sign. A sign that is not permanently installed in the ground or affixed to any structure or building, and which is erected for a period of time as permitted in this chapter.

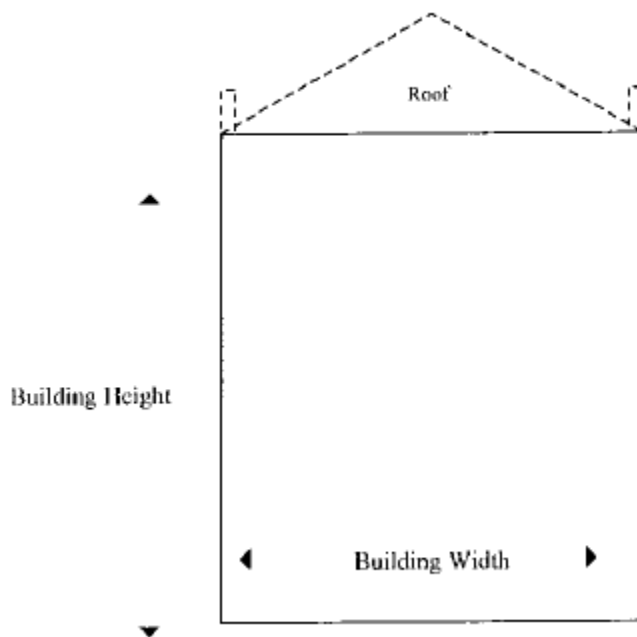
(33) Temporary planned development sign. A sign that pertains to the development of a new commercial, residential, or mixed use development while it is under construction.

(34) Vehicular sign. Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property. For the purposes of this chapter, vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other business purposes.

(35) Wall sign. Any sign directly attached to an exterior wall of a building or dependent upon a building for its support. Signs directly painted on walls shall be considered wall signs.

(36) Wall face area. The total square footage of a building front measured by the building height multiplied by the linear width of the building or store bay.

(37) Wall sign area. The total square footage of all wall signs associated with a business or structure.



(38) Window sign. Any sign attached to or directly applied onto a window or glass door of a building intended for viewing from the exterior of the building. (Ord. of 1/10/05; Ord. of 1/5/09; Ord. of 12/6/10; Ord. of 10/5/15)

Section 9-3107 through section 9-3110 reserved.

ARTICLE I
Planned Unit Developments

Section 9-3111 Planned Unit Development— Residential (PUD-R).

(1) Intent: The purpose of the Planned Unit Development—Residential is to encourage the development of living environments, which meet the needs of the people who live in them by providing certain development privileges in exchange for preplanning and design considerations. The Planned Unit Development— Residential provides flexibility in using new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design, which promotes the conservation of open space and ensures substantial compliance with the intent of the town zoning ordinance. Furthermore, it is the purpose of this section to:

- (a) Encourage development that enhances the quality of life while protecting the health, safety and general welfare of residents;
- (b) Encourage variety in housing opportunities;
- (c) Encourage the development of a viable economic base;
- (d) Encourage the development of land uses that will complement existing adjacent land uses;
- (e) Provide guidelines for development of planned unit developments.

(2) The Town Council may approve this form of development in the districts that allow it as a conditional use, provided that the conditions specified in this article are met. (Ord. of 1/10/05; Ord. of 1/8/07; Ord. of 12/6/10)

Section 9-3111.1 Permitted uses and requirements.

(a) Planned unit developments may be approved for any residential use or combination of uses except the combination of residential and industrial.

(b) General requirements.

(1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the application for a planned unit development.

(2) A residential planned unit development shall be located on a site containing at least two (2) contiguous acres.

(3) If land or structures within a proposed PUD-R are to be sold to more than one person, firm, corporation or other entity, then the proposed PUD-R shall be subject to the town subdivision ordinance. Deviations from said standards may be approved provided they are stated as part of the PUD-R application requirements.

(4) A minimum of ten percent (10%) of the land area for the PUD-R shall be common open/recreational space. This area shall be identified as open/recreation space on the submitted plans, which shall be recorded in the office of the Register of Deeds. In residential mixed use PUD-R's, required open space may not be part of any proposed or platted single-family residential lots.

(5) All new planned unit developments shall provide concrete sidewalks along both sides of all existing and proposed public streets within the PUD-R. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-R. Sidewalks shall be a minimum of 5 feet wide and four inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.

(6) The design and layout of a PUD-R shall take into account the relationship of the site of the surrounding areas. Additionally, the perimeter of the PUD-R shall be so designed as to minimize any negative impact on adjacent properties.

(7) Development of a PUD-R may be phased, in which case all the property anticipated for the PUD-R development shall be submitted as part of the PUD-R development plan showing a conceptual depiction of the eventual development and approximate phase lines shown. During the phased development of a PUD-R, proportional overall common open space required shall be incorporated into each phase and be dedicated and installed or improved by the end of the construction of each proposed phase.

(8) Following review of the proposed PUD-R, the Planning Board shall recommend approval or denial of the application and accompanying PUD-R plans. Planning Board may recommend to Town Council conditional approval with such conditions as are necessary to ensure conformity to all applicable requirements. If conditions are placed on the approval of the PUD-R, a revised plan including the required changes must be submitted to the Town Council.

(9) In order for an application for a PUD-R to be approved, the Town Council must find that the proposed development will be compatible with comprehensive land use, and neighborhood development plans, and will not place an excessive traffic load on local streets. In addition, Town Council must find that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(10) Site development within the PUD-R shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Town Council. Modification of the development plan may be made by the Town Council subsequent to its initial approval upon application by the owner of the property.

(11) Following approval by the Town Council of a PUD-R conditional use permit, the property for which approval was granted shall be labeled "PUD-R" on the official zoning map.

(12) Lot design and requirements. Clustering of structures on smaller lots is encouraged. Lots in a PUD-R may be smaller than established in the zoning ordinance provided that the overall average lot size and density of the entire PUD-R meets zoning requirements and the proposed lot sizes are shown in the PUD-R application. The following are the minimum building setbacks:

Lot Size	Setbacks from ROW and Parcel Line
>=8,000 sq. feet	Front: 25'
	Side: 10' (15' for side abutting a street ROW)
	Rear: 25'

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<8,000 sq. feet Front: 25'
 Side: 10' (15' for side abutting a street ROW)
 Rear: 20'

(c) Application requirements. An application for a conditional use permit to allow a PUD-R shall be accompanied by schematic plans showing the information listed below. In addition, the Town Council may require additional information necessary to ensure compliance with the provisions of this chapter.

(1) Proposed location of buildings and their general exterior dimensions of all non-single family structures;

(2) Proposed use of all the land within the area requested for a PUD-R, in addition to the zoning designation and land use of adjacent properties;

(3) Dimensions between all buildings and from buildings to property lines;

(4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;

(5) Proposed location and material of any screening walls, fences, or plantings;

(6) Proposed exterior design of buildings for all non-single family structures;

(7) Schedule of number and size of dwelling units within the project;

(8) Proposed time schedule and staging, if any, for construction of the project;

(9) Statement of intent, including plans for selling or renting the property;

(10) Provision to assure maintenance of all common areas and open space; Example: Property owners' association, private conservancy, etc.;

(11) Location of all common yards, open space and recreational areas;

(12) Street lighting, if any;

(13) Signage plan, if it will vary from base zoning ordinance (Section 9-3097);

(14) The location and size of all non-residential structures;

(15) If approved, prior to construction the following items must be submitted to planning staff:

a. Professionally prepared plans of each phase with the items listed below as a minimum must be submitted and approved by the Planning Board:

1. Existing site topographical conditions, showing contours at five (5) foot intervals, if reasonably available, and location of significant geographical features, including watercourses;

2. The location of drainage facilities/basins and other similar features;

3. A boundary survey;

4. Construction specifications for streets and pedestrian ways including typical roadway sections showing locations of all utilities. These specifications must be sealed by a professional engineer licensed in the State of North Carolina;

5. Sealed engineering plans for water, sewer, storm drainage and erosion/sedimentation;

6. Preliminary subdivision plat if the property is to be subdivided;

7. General concept landscape plans for open space, common areas, streets, pedestrian ways and recreational facilities;

8. Location, arrangement and number of parking facilities and loading areas;
9. Architectural concept plans of typical structures.

b. Should the Planning Board deny the application, the applicant may appeal to the Town Council by filing a written notice of appeal within thirty (30) days from receipt of the Planning Board's denial of the application. (Ord. of 1/10/05; Ord. of 1/8/07; Ord. of 12/6/10; Ord. of 11/7/16)

Section 9-3112 Planned Unit Development— Business (PUD-B).

Intent: The purpose of the Planned Unit Development—Business is to encourage the development of environments, which meet the needs of the people who live or work in them by providing certain development privileges in exchange for preplanning and design considerations. The Planned Unit Development— Business provides flexibility in using new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design which promotes the conservation of open space. The Town Council may approve this form of development in the districts that allow it as a conditional use, provided that the conditions specified in this article are met. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3112.1 Permitted uses and requirements.

(a) Uses permitted within the PUD-B: uses permitted within the zoning district for which the project site is located.

(b) Permitted building and lot types: building and lot types permitted within the zoning district for which the project site is located.

(c) Permitted accessory structures and uses: accessory structures and uses permitted within the zoning district for which the project site is located.

(d) General requirements:

(1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a planned unit development.

(2) The development shall be in full compliance with all density and lot coverage limitations and requirements of the zoning district in which the development is to be located.

(3) All new planned unit developments shall provide concrete sidewalks along both sides of all existing and proposed public streets within the PUD-B. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-B. Sidewalks shall be a minimum of five (5) feet wide and four (4) inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.

(4) The Town Council may require buffering around the proposed PUD-B.

(5) In approving an application for a PUD-B, the Town Council shall find that the proposed development will be compatible with comprehensive, land use, and neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(6) Site development within the PUD-B shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Town Council. Modification of the development plan may be made by the Town Council subsequent to their initial approval upon application by the owner of the property.

(7) Following approval by the Town Council of a PUD-B conditional use permit, the property for which approval was granted shall be labeled "PUD-B" on the official zoning map.

(e) Application requirements: An application for a conditional use permit to allow a PUD-B shall be accompanied by schematic plans showing the information listed below. In addition, the Town Council may require additional information necessary to ensure compliance with the provisions of this chapter.

- (1) Proposed location of buildings and their general exterior dimensions;
- (2) Proposed use of all the land within the area requested for a PUD-B;
- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings;
- (7) Schedule of number and size of dwelling units/buildings within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3113 through section 9-3115 reserved.

ARTICLE J
Administration, Enforcement, and Penalties

Section 9-3116 Zoning Enforcement Officer.

This chapter shall be administrated and enforced by the Zoning Enforcement Officer who shall be appointed by the Town Manager and is hereby empowered:

(a) To issue a zoning permit when these regulations have been followed or, to refuse to issue the same in the event of noncompliance. Written notice of such refusal and reason therefore shall be given to the applicant.

(b) To collect the fees set forth herein for a zoning permit, variances, appeals, rezonings, conditional use permits and subdivisions.

(c) To make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning permits and of receipt of complaints of violation of this chapter and action taken to the same.

(d) To inspect any building and/or land to determine whether any violations of this chapter have been committed or exist.

(e) To enforce this chapter and take all necessary steps to remedy any condition found in violation by ordering in writing the discontinuance of illegal uses or illegal work in progress and may institute injunction, mandamus, or other necessary action.

(f) To keep the Board of Adjustment advised of all matters other than routine duties pertaining to the enforcement of this chapter and to transmit all applications and records pertaining to appeals, variances, or requests for conditional use approval. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3117 Zoning permit required.

Within the corporate limits of the town no building, sign or other structure shall be erected, moved, added to or structurally altered before a zoning permit has been issued by the Zoning Enforcement Officer of the town. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3118 Application for a zoning permit.

(a) Each application for a zoning permit to the Zoning Enforcement Officer of the town shall be accompanied by a fee, set by the Town Council, and a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the owner upon approval. The plan shall show the following:

- (1) The actual dimensions of the lot to be built upon;
- (2) The size and location of all buildings existing on the lot;
- (3) The size and location of the proposed new construction;
- (4) The existing and intended use of all parts of the land or building;
- (5) Such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter.

(b) Any zoning permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue or if the work authorized by it is suspended or abandoned for a period of one (1) year. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3119 Certificate of occupancy required.

No land within the corporate limits of the town shall be used or occupied and no building within the corporate limits of the town shall hereafter be erected, structurally altered, converted or changed in use until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer stating that the building or the proposed use thereof complies with the provisions of this chapter. A certificate of occupancy either for the whole or a part of a building shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of such building, or part, shall have been completed in conformity with the provisions of this chapter. A temporary certificate of occupancy may be issued by the Zoning Enforcement Officer for a period not exceeding six (6) months during alterations or construction for partial occupancy of a building pending its completion, or for bazaars, carnivals, and revivals, provided that such temporary permit shall require such conditions and safeguards as will protect the safety of the occupants and the public. A record of all certificates shall be kept on file in the office of the Zoning Enforcement Officer and copies shall be furnished on request to any person requesting it. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3120 Penalties for violations.

~~(a) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished for each offense by a fine not exceeding two hundred dollars (\$200) or by imprisonment not to exceed thirty (30) days. Any person who shall violate a section of this chapter punishable by criminal penalty shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.~~

(b) ~~In addition to the penalty in Subsection 9-3120(a) above, a~~ violation of this chapter shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the town within seventy-two (72) hours from the time of issuance of the written citation.

(c) Each day's continuing violation shall be a separate and distinct offense.

(d) In addition to the penalties imposed under Subsections 9-3120(a) and 9-3120(b) above, the provisions of this chapter may also be enforced through equitable remedies issued by a court of competent jurisdiction including injunction and order of abatement.

(e) This chapter may be enforced by any one, all or a combination of the remedies authorized herein. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3121 Remedies.

(a) In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the Zoning Enforcement Officer or any other appropriate town authority or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

(b) In case any sign shall be installed, erected or constructed in violation of any of the terms of this chapter, the Zoning Enforcement Officer shall notify by personal notice or registered mail the owner or lessee thereof to alter such sign so as to comply with this chapter and to secure the necessary permit there for or to remove the sign. If such an order is not complied with within ten (10) days, the Zoning Enforcement Officer shall remove the sign at the expense of the owner or lessee thereof. In the event that such sign should become insecure, or in danger of falling, the person maintaining the same shall, upon written notice from the Zoning Enforcement Officer, forthwith, in case of immediate danger, and in any case, within ten (10) days secure it in a manner approved by the Zoning Enforcement Officer. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3122 through section 9-3125 reserved.

ARTICLE K
Planning Board

Section 9-3126 Establishment of the Planning Board.

A Planning Board is hereby established as provided in G.S. 160A-361. Said Board shall consist of five (5) regular members and two (2) alternate members appointed by the Town Council, for overlapping terms of three (3) years. Initial appointment of the members shall be as follows: one regular (1) member and one (1) alternate member for a term of three (3) years, two (2) regular members and one alternate member for a term of two (2) years, and two regular (2) members for a term of one (1) year. Alternate members of the Planning Board shall be called on to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Except at the election of the Chair, Vice-Chair and Secretary, at no time shall more than five (5) members participate officially in any meeting or hearing. Any vacancies in the membership shall be filled for the unexpired term in the same manner as the initial appointments. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board. The members appointed to the Board shall be residents and citizens of the town. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3127 Proceedings and duties of the Planning Board.

(a) The Planning Board shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Planning Board shall adopt rules of procedure in accordance with the provisions of this chapter and in G.S. Chapter 160A, Article 19. Meetings of the Planning Board shall be held once a month or at the call of the Chairman. All meetings of the Planning Board shall be open to the public.

(b) It shall be the duty of the Planning Board, in general:

(1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions;

(2) To prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

(3) To establish principles and policies for guiding action in the development of the area;

(4) To prepare and recommend to the Town Council ordinances providing orderly development along the lines indicated by the comprehensive plan;

(5) To determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

(6) To keep the Town Council and general public informed and advised as to those matters;

(7) To perform any other duties which may lawfully be assigned to it. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3128 through 9-3130 reserved.

ARTICLE L
Board of Adjustment

Section 9-3131 Establishment of the Board of Adjustment.

A Board of Adjustment is hereby established as provided in G.S. 160A-388. The Planning Board shall function as the Board of Adjustment as provided in G.S. 160A-388. (Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10; Ord. of 6/30/14)

Section 9-3132 Jurisdiction and decision of the Board of Adjustment.

(a) The concurring vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(b) The Board of Adjustment shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board or such other office or official. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

(c) In accordance with G.S. 160A-388(e) no member of the Board of Adjustment shall participate or vote in any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. (Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10; Ord. of 6/30/14)

Section 9-3133 Proceedings of the Board of Adjustment.

(a) The Board of Adjustment shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a municipal officer or an employee of the town. The Board shall adopt rules of procedure in accordance with the provisions of this chapter and in G.S. Chapter 160A, Article 19. Meetings of the Board shall be held once a month or at the call of the Chairman. All meetings of the Board shall be open to the public.

(b) ~~The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully~~

swears falsely is guilty of a Class 1 misdemeanor. The Chair of the Board or any member acting as Chair and the Clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely shall be guilty of a Class 3 misdemeanor and may be fined not more than five hundred dollars (\$500.00), or such other maximum amount as shall be authorized by North Carolina General Statutes or specifically established in this code, whichever is less.

(c) The Board of Adjustment through the Chair, or in the Chair's absence anyone acting as Chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons withstanding under G.S. 160A-393(d) may make a written request to the Chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the Chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/30/14)

Section 9-3134 Appeals, hearings and notice.

(a) The Board of Adjustment shall hear and decide appeals from decisions of the Zoning Administrator. As used in this section, the term decision includes any final and binding order, requirement, or determination of the Zoning Administrator. The Board of Adjustment may hear appeals arising out of the Zoning Ordinance pursuant to all of the following:

(1) Any person who has standing under G.S. 160A-393(d) or the Town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Town Clerk. The notice of appeal shall state the grounds for the appeal.

(2) The Zoning Administrator shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

(3) The owner or other party shall have thirty (30) days from receipt of the written notice within which to file an appeal. Any other person withstanding to appeal shall have thirty (30) days from receipt from any source of actual or constructive notice of the decision within which to file an appeal.

(4) It shall be conclusively presumed that all persons withstanding to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters at least six (6) inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least ten (10) days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the Zoning Administrator. Absent an ordinance provision to the contrary, posting of signs shall not be required.

(5) The Zoning Administrator shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is taken. The Zoning Administrator shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(6) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the Zoning Administrator certifies to the Board of Adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the Zoning Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the Board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

(7) Subject to the provisions of subdivision (6) of this subsection, the Board of Adjustment shall hear and decide the appeal within a reasonable time.

(8) The Zoning Administrator shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. To this end, the Board shall have all the powers of the Zoning Administrator.

(b) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing. Within that same time period, the Town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/30/14)

Section 9-3135 Stay of proceedings.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of

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Adjustment or by a court of record on application, on notice to the Zoning Enforcement Officer and on due cause shown. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3136 Fees for variances and appeals.

A fee, set by the Town Council, shall be paid to the Town Clerk of the town for each application for a variance or appeal to cover the necessary administrative costs and advertising. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3137 Powers and duties of the Board of Adjustment.

The Board of Adjustment shall have the following powers and duties:

(a) Administrative review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Enforcement Officer in the enforcement of this chapter.

(b) Variances. To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the chapter will, in an individual case, result in unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, buildings, or structures in the same district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

(2) Granting the variance requested will not confer upon the applicant any special privileges denied to other residents in the district in which the property is located.

(3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.

(5) The special circumstances are not the result of the actions of the applicant.

(6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structures.

(7) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved. (Ord. of 1/10/05; Ord. of 12/6/10; Ord. of 6/30/14)

Section 9-3138 Appeals from the Board of Adjustment.

Any person or persons, jointly or severally, aggrieved by a decision of the Board, may within thirty (30) days after the filing of the decision in the office of the Town Clerk, but not thereafter, present to the Superior Court of Burke County a petition duly verified, setting forth that such decision is illegal in whole or in part, specifying the grounds of illegality,

whereupon such decision of said Board shall be subject to review by certiorari as provided by law. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3139 through section 9-3140 reserved.

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ARTICLE M Amendments

Section 9-3141 Procedure for amendments.

The Town Council may amend, supplement or change the text regulations and zoning district lines according to the following procedures:

(a) Initiation of amendments. Proposed changes or amendments may be initiated by the Town Council, Planning Board, Board of Adjustment, or by one or more owners or lessees of property within the area proposed to be changed or affected.

(b) Petition. A petition for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied and the names and addresses of the owner or owners of the property. Such petition shall be filed with the Zoning Enforcement Officer not later than three (3) weeks prior to the meeting at which the petition is to be considered.

(c) Fee. A fee, set by the Town Council, shall be paid to the Town Clerk of the town for each petition for an amendment to cover the costs of advertising and other administrative expenses involved. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3142 Action by the Planning Board.

The Planning Board shall consider and make recommendations to the Town Council concerning each proposed zoning amendment. The Planning Board, at its own discretion, may hold a public hearing if deemed necessary by the Planning Board. Otherwise, the Planning Board will send its recommendation directly to the Town Council who shall hold a public hearing for every proposed zoning amendment. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any land development plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters deemed appropriate by the Planning Board. Any comment by the Planning Board that a proposed text or map amendment is inconsistent with any officially adopted plans shall not preclude consideration or approval of the proposed amendment by Town Council. (Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10)

Section 9-3143 Town Council consideration.

The Town Council shall consider changes and amendments to this chapter as often as necessary, provided, however, that should the Town Council deny a request for a zoning amendment, it shall not thereafter accept any other petition for the same change of zoning district affecting the same property, or any portion thereof, until the expiration of one (1) year from the date of such previous denial. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3144 Required notifications.

(a) Legal notice of public hearing. No amendment shall be adopted by the Town Council until after public notice and hearing. In accordance with G.S. 160A-364, notice of public hearing shall be published in a newspaper of general circulation in the town at least once each week for two (2) successive weeks prior to the hearing. The first notice shall appear in

the newspaper at least ten (10) days but not more than twenty-five (25) days prior to the hearing.

(b) Mail notice requirements. In accordance with G.S. 160A-384, whenever the amendment involves a change in the zoning classification of a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting or within one hundred (100) linear feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in Section 9-3144(a). Such notice shall be sent by first class mail to the last address listed for such owners on the county tax listing. The person responsible for making the mailed notice shall certify to the Town Council that such notice was indeed prepared and mailed. In accordance with G.S. 160A-384(c), whenever an amendment involves a change in the zoning classification of a parcel of land, the town shall prominently post a notice of the public hearing in the site proposed for rezoning or on an adjacent right-of-way. When multiple parcels are included within a proposed zoning map amendment, the town shall post sufficient notices to provide reasonable notice to interested persons.

(c) Substitute notice.

(1) In accordance with G.S. 160A-384(b)(3), (4) and (5) individual mailed notices may be waived in lieu of a substitute notice if the amendment meets at least one of the following criteria:

- a. If the zoning reclassification directly involves more than fifty (50) properties, owned by a total of at least fifty (50) different owners;
- b. If the proposal involves an amendment to the text of this chapter such that it changes the permitted, conditional, or accessory uses of a zoning district;
- c. If the town is adopting a water supply watershed protection program as required by G.S. 143-214.5.

(2) Notice requirements for amendments meeting any of the three criteria of Section 9-3144(c)(1) above are as follows:

- a. Notice of the public hearing shall be published in a newspaper of general circulation in the town at least once each week for two (2) consecutive weeks prior to the hearing. The notice must include a map no less than one-half the size of the newspaper page. The map must show the boundaries of the area affected by the proposed amendment;
- b. The town must notify by first class mail any property owner who resides outside the town's zoning jurisdiction or outside the circulation area of the newspaper in which the notice is published. The notice must be mailed to the last address listed for such owners on the most recent county tax listing. (Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10)

Section 9-3145 Town Council action.

Before taking such lawful action as it may deem advisable, the Town Council shall consider the Planning Board's recommendations on each proposed zoning amendment. If no recommendations are received from the Planning Board within thirty (30) days after their meeting, the proposed amendment shall be deemed to have been approved by the Planning Board. Prior to adopting or rejecting any zoning amendment, Town Council shall adopt a statement describing whether its action is consistent with the adopted land use plan and explaining why the Council considers its action to be reasonable and in the public interest

(G.S. 160A-383). In accordance with G.S. 160A-381(d) and 160A-75, a council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable impact on the member. Under no circumstances shall the Town Council adopt such amendments that would cause this chapter to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Amendments affecting the watershed protection portions of this chapter shall be filed with the North Carolina Division of Environmental Management, the North Carolina Division of Environmental Health, and the North Carolina Division of Community Assistance. (Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10)

Section 9-3146 Protest petitions.

(a) General. A protest petition may be presented against any proposed amendment. To qualify as a protest petition under this section must be signed by the owners of either (i) twenty percent (20%) or more of the area included in the proposed change or (ii) five percent (5%) of a one hundred (100)-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in the computing of the one hundred (100)-foot buffer area as long as that street right-of-way is one hundred (100) feet or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the one hundred (100)-foot buffer shall be measured from the property line of that parcel (G.S. 385(a)). In the case of a valid protest petition, the amendment shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Town Council.

(b) Petition requirements. No protest petition against any change in or amendment to this chapter or zoning map shall be valid unless presented in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do indeed protest the proposed amendment or change. Furthermore, the protest petition must be received by the Town Clerk in sufficient time to allow the Town at least two (2) normal working days, excluding Saturdays, Sundays and legal holidays, before the date established for a public hearing on the proposed change or amendment in order to determine the sufficiency and accuracy of the petition. (G.S. 160A-387). A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment (G.S. 160A-386). Only those protest petitions that meet the qualifying standards set by G.S. 160A-385 at the time of the vote shall trigger the three-fourths (3/4) majority.

(c) Petition applicability. The foregoing provisions about protest petitions shall not be applicable to any amendment, which initially zones a property added to the territorial coverage of the ordinance because of annexation or other means.

(d) Voting calculations. In accordance with G.S. 160A-385(a), vacant positions on the Town Council and members who are excused from voting shall not be used in the calculation of the three-fourths (3/4) majority.

(Ord. of 1/10/05; Ord. of 6/26/06; Ord. of 12/6/10)

State law reference: Planning agency to certify ordinance to City Council, see G.S. 160A-387

Section 9-3147 through section 9-3150 reserved.

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ARTICLE N
Watershed Protection

Section 9-3151 Authority and enactment.

The state legislature has, in G.S. Chapter 160A, Article 19, Planning and Regulation of Development; and in G.S. Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The town does hereby ordain and enact into law the following articles as the "Watershed Protection Ordinance of Valdese, North Carolina." (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3152 Jurisdiction.

The provisions of this article shall apply within the overlay zones designated as a Public Water Supply Watershed as defined and established on the "Official Zoning Map of Valdese, North Carolina" ("the Zoning Map"), such overlay zones being adopted simultaneously herewith. The zoning map and all explanatory matter contained thereon accompany and are hereby made a part of this article. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3153 Exceptions to applicability.

(a) Development activities that do not require a sedimentation/erosion control plan are exempt from the requirements of this article.

(b) Existing development, as defined in this article, is not subject to the requirements of this article. Existing development is defined as those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Having expended substantial resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project;

(2) Having an outstanding valid building permit as authorized by G.S. 153A-344.1 and G.S. 160A-385.1; or

(3) Having an approved site specific or phased development plan as authorized by G.S. 153A-344.1 and G.S. 160A-385.1.

(c) Expansions to structures classified as existing development must meet the requirements of this chapter; however, the built-upon area of the existing development is not required to be included in the density calculations. (d) Reconstruction of buildings or built-upon areas. Any existing building or built-upon area not in conformance with the restrictions of this chapter that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single-family residential redevelopment, provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

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(e) If a non-conforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this chapter if it is developed for single family purposes (and zoned for this use). (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3154 Cluster or planned unit development.

Cluster or planned unit development is allowed in all watershed areas under the following conditions:

(a) Development activities shall comply with the respective requirements of Article D and Article I of this chapter.

(b) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(c) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the deeds. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3155 Buffer areas required.

(a) A minimum one hundred (100) foot vegetative buffer is required for all new development activities that exceed the low density option; otherwise a minimum thirty (30) foot vegetative buffer for development activities in the protected area is required along all perennial waters, and a minimum fifty (50) foot vegetative buffer for development activities in the critical area is required along all perennial waters indicated in the most recent versions of USGS 1:24,000 (seven and one-half (7.5) minute) scale topographic maps or as determined by local studies. Artificial streambank stabilization is permitted.

(b) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways and their appurtenances where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices. (Ord. of 1/10/05; Ord. of 1/8/07; Ord. of 12/6/10)

Section 9-3156 Watershed Administrator and duties thereof.

(a) The Watershed Administrator shall be the same as the Zoning Enforcement Officer as described in this chapter.

(b) It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this article as follows:

(1) The Watershed Administrator shall issue zoning permits and certificates of occupancy as provided in this chapter. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(2) The Watershed Administrator shall serve as staff to the Planning Board, Board of Adjustment, and Town Council.

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(3) The Watershed Administrator shall keep records of all amendments to the local water supply watershed protection ordinance and shall provide copies of all amendments upon adoption to the Division of Water Quality.

(4) The Watershed Administrator is granted the authority to administer and enforce the provisions of this article, exercising in the fulfillment of his responsibility the full zoning and police power of the town. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this article.

(5) The Watershed Administrator shall keep a record of variances to the local water supply watershed protection ordinance. This record shall be submitted each calendar year to the Division of Water Quality on or before January 1st of the following calendar year and shall provide a description of each project receiving a variance and the reasons for granting the variance. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3157 Appeal from the Watershed Administrator.

(a) Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Board of Adjustment.

(b) An appeal from a decision of the Watershed Administrator must be submitted to the Board of Adjustment within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

(d) The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3158 Establishment of a Watershed Review Board.

There shall be and hereby is created the Watershed Review Board consisting of the same membership as the Town Council. Terms for members of the Watershed Review Board shall coincide with the membership terms for the Town Council. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3159 Powers and duties of the Watershed Review Board and Board of Adjustment.

(a) The Board of Adjustment shall be responsible for reviewing and hearing all major and minor watershed variance cases, and shall proceed as provided in Article XI of the this chapter for zoning variances when reviewing all watershed variance cases.

(b) If the application calls for the granting of a major watershed variance, and if the Board of Adjustment decides in favor of granting the major watershed variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- (1) The variance applications;
- (2) The hearing notices;
- (3) The evidence presented;
- (4) Motions, offers of proof, objections to evidence, and rulings on them;
- (5) Proposed findings and exceptions;
- (6) The proposed decision, including all conditions proposed to be added to the permit.

(c) The preliminary record shall be sent to the Environmental Management Commission (EMC) for its review as follows:

(1) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the EMC shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The EMC shall prepare a decision and send it to the Board of Adjustment. If the EMC approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the EMC approves the variance with conditions and stipulations, the Board of Adjustment shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) If the EMC concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the EMC shall deny approval of the variance as proposed. The EMC shall prepare a commission decision and send it to the Board of Adjustment. The Board of Adjustment shall prepare a final decision denying the variance as proposed.

(d) Written notification shall be given to local governments having jurisdiction and any entity using the water supply for consumption where a variance is being considered. The local government and entity shall have a reasonable comment period prior to review by the Board of Adjustment.

(e) Approval of all development with densities greater than that specified in Article E of this chapter shall be the authority of the Town Council/Watershed Review Board. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3160 Appeals from the Town Council or Board of Adjustment.

Appeals from the Town Council or Board of Adjustment must be filed with the Superior Court within thirty (30) days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3161 High density development standards.

The Town Council may approve high density development proposals consistent with the following standards:

(a) WS-IV-Critical Areas—Where new development requires a sedimentation/erosion control plan and exceeds either two (2) dwelling units per acre, or twenty-four (24%) built-upon area, engineered storm- water controls shall be used to control runoff from the first inch of rainfall and development shall not exceed fifty (50%) built-upon area.

(b) WS-IV-Protected Areas—Where new development requires a sedimentation/erosion control plan and exceeds either two (2) dwelling units per acre, or twenty-four (24%) built-upon area (or three (3) dwelling units per acre or thirty-six percent (36%) built-upon area for projects without curb and gutter street system), engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed seventy (70%) built-upon area. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3162 High density development permit application.

(a) A high density development permit shall be required for new development exceeding the density requirements specified in Article E of this chapter.

(b) Application for a high density development permit shall be addressed and submitted to the Town Council through the Watershed Administrator. Application for a high density development permit shall be made on the proper form and shall include the following information:

(1) A completed high density development permit application signed by the owner of the property. The signature of the consulting engineer or other agent will be accepted on the application only if accompanied by a letter of authorization;

(2) Ten (10) reproducible copies of the development plan including detailed information concerning built-upon area;

(3) Ten (10) reproducible copies of the plans and specifications of the stormwater control structure consistent with Section 9-3163;

(4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency;

(5) Permit application fees consistent with Section 9-3165;

(c) Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within the prescribed time limit.

(d) Public hearing. Upon receipt of a completed application, the Town Council shall hold a public hearing. Notice of the hearing shall be published in a newspaper of general circulation at least seven (7) days prior to the date of the hearing. The notice shall state the location of the building, lot or tract in question, the intended use of the property, the need for engineered stormwater controls and the time and place of the hearing. At the hearing, the applicant or designated representative thereof shall appear for the purposes of offering testimony and recommendations concerning the application. The Board shall also allot reasonable time for the expression of views by any member of the public attending the

meeting in person or represented by an attorney provided the testimony bears on the findings the Board must make.

(e) Conditions for a high density development permit.

(1) The Town Council shall issue a high density development permit within sixty-five (65) days of its first consideration upon finding that the proposal is consistent with the applicable standards set forth in the watershed protection ordinance and the following conditions are met:

a. The use will not endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;

b. The use minimizes impacts to water quality through the best management practices, cluster development, and/or maximum setbacks from perennial waters;

c. The use is vital to the continued growth and economic development of the town.

d. The use is consistent with the officially adopted land development plans for the town.

(2) If the Town Council finds that any one of the above conditions is not met, the Board shall deny the application.

(f) In addition to any other requirements provided by this chapter, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this chapter. All additional conditions shall be entered in the minutes of the meeting, at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heirs, successors or assigns during the continuation of the permitted use.

(g) The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk. If the Board approves the application based on its findings, such approval shall be indicated on the permit and all copies of the site plan and all copies of the plans and specifications of the stormwater control structure(s). A high density development permit shall be issued after the applicant posts a performance bond or other acceptable security as required in Section 9-3164(b)(1) and executes an operation and maintenance agreement as required in Section 9-3164(c). A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3163 Stormwater control structures.

(a) All stormwater control structures shall be designed by a North Carolina registered professional engineer.

(b) All stormwater controls shall use wet detention ponds as a primary treatment system unless alternative stormwater management measures, as outlined in Section 9-3163(c), are used. Wet detention ponds shall be designed for specific pollutant removal according to modeling techniques approved by the North Carolina Division of Environmental Management. Specific requirements for these systems shall be in accordance with the following design criteria:

(1) Wet detention ponds shall be designed to remove eighty-five percent (85%) of total suspended solids in the permanent pool and storage run-off from a one-inch rainfall from the site above the permanent pool;

(2) The designed run-off storage volume shall be above the permanent pool;

(3) The discharge rate from these systems following the one-inch rainfall design storm shall be such that the run-off does not draw down to the permanent pool level in less than two (2) days and that the pond is drawn down to the permanent pool level within at least five (5) days;

(4) The mean permanent pool depth shall be a minimum of three (3) feet;

(5) The inlet structure shall be designed to minimize turbulence using baffles or other appropriate design features;

(6) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least thirty (30) feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow through the filter for a ten (10)-year, twenty-four (24) hour storm with a ten (10) year, one (1) hour intensity with a slope of five percent (5%) or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics; and

(7) All stormwater control structures shall be enclosed by a fence with a minimum height of six (6) feet.

(c) Alternative stormwater management systems, consisting of one treatment option or a combination of treatment options, may be used. The design criteria for approval shall be eighty-five percent (85%) average annual removal of total suspended solids. Also, the discharge rate shall meet one of the following criteria:

(1) The discharge rate following the one-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five (5) days, but not less than two (2) days; or

(2) The post development peak discharge rate shall equal the predevelopment rate for the one-year, 24-hour storm.

(d) In addition to the vegetative filters required in Section 9-3163(b)(6), all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within thirty (30) days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement described in Section 9-3164(c).

(e) An easement in the property containing the stormwater control structure allowing the town to perform inspections, maintenance, repairs, reconstruction, and any other acts which may be required in order for the town to carry out the provisions of this article, along with any easements necessary for general access to the stormwater control structure shall be prepared consistent with Section 9-3167(a) and (b) and recorded in the office of the Register of Deeds of Burke County. The area in which this easement is granted shall include the detention pond, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs and reconstruction.

(f) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage

built-upon area for one site, it shall not be used to compute the built-upon area for any other site or area. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3164 Posting of financial security required.

(a) All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, reconstruction, or repairs necessary for adequate performance of the stormwater control structures.

(b) Financial assurance shall be in the form of the following:

(1) Security performance bond or other security. The permit applicant shall obtain either a performance bond from a surety bonding company authorized to do business in North Carolina, an irrevocable letter of credit or other instrument readily convertible into cash at face value payable to the town or placed in escrow with a financial institution designated as an official depository of the town. The bond or other instrument shall be in an amount equal to one and one-quarter (1.25) times the total cost of the stormwater control structure, as estimated by the applicant and approved by the town. The total cost of the stormwater control structure shall include the value of all materials such as piping and other structures; seeding and soil stabilization; design and engineering; and, grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.

(2) Cash or equivalent security deposited after the release of the performance bond. Consistent with Section 9-3167(c)(1), the permit applicant shall deposit with the town either cash or other instrument approved by the Town Attorney that is readily convertible into cash at face value. The cash or security shall be in an amount equal to fifteen percent (15%) of the total cost of the stormwater control structure or the estimated cost of maintaining the stormwater control structure over a ten (10) year period, whichever is greater. The estimated cost of maintaining the stormwater control structure shall be consistent with the approved operation and maintenance plan or manual provided by the developer under Section 9-3165(a).

(c) Consistent with Section 9-3162, the permit applicant shall enter into a binding operation and maintenance agreement between the town and all interests in the development. Said agreement shall require the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and management plan or manual provided by the developer. The operation and maintenance agreement shall be filed with the County Register of Deeds by the Watershed Administrator.

(d) Default under the performance bond or other security. Upon default of the permit applicant to complete and/or maintain the stormwater control structure as specifically provided in the performance bond or other security, the town may obtain and use all or any portion of the funds necessary to complete the improvements based on an engineering estimate. The town shall return any funds not spent in completing the improvements to the owning entity.

(e) Default under the cash security. Upon default of the owning entity to maintain, repair and, if necessary, reconstruct the stormwater control structure in accordance with the operation and maintenance agreement, the town shall obtain and use all or any portion of the cash security to make necessary improvements based on an engineering estimate. Such

expenditure of funds shall only be made after exhausting all other reasonable remedies seeking the owning entity to comply with the terms and conditions of the operation and maintenance agreement. The town shall not return any of the deposited cash funds. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3165 Maintenance and upkeep.

(a) An operation and maintenance plan or manual shall be provided by the developer for each storm water control structure, indicating what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken and, consistent with the operation and maintenance agreement, who is responsible for those actions. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.

(b) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement to the stormwater control structure.

(c) Except for general landscaping and grounds management, the owning entity shall notify the Watershed Administrator prior to any repair or reconstruction of the stormwater control structure. All improvements shall be made consistent with the approved plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the Town Engineer shall inspect the completed improvements and shall inform the owning entity of any required additions, changes or modifications and of the time period to complete said improvements.

(d) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan or manual shall be approved by the Town Council. Proposed changes shall be prepared by a North Carolina registered professional engineer and submitted to and reviewed by the Watershed Administrator prior to consideration by the Town Council.

(1) If the Town Council approves the proposed changes, the owning entity of the stormwater control structure shall file sealed copies of the revisions with the office of the Watershed Administrator.

(2) If the Town Council disapproves the changes, the proposal may be revised and resubmitted to the Town Council as a new proposal. If the proposal has not been revised and is essentially the same as that already reviewed, it shall be returned to the applicant.

(e) If the Town Council finds that the operation and maintenance plan or manual is inadequate for any reason, the Board shall notify the owning entity of any required changes and shall prepare and file copies of the revised agreement with the County Register of Deeds, the office of the Watershed Administrator and the owning entity. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3166 Application and inspection fees.

(a) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the town. Applications shall be returned if not accompanied by the required fee.

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(b) A permit and inspection fee schedule, as approved by the town, shall be posted in the office of the Watershed Administrator.

(c) Inspection fees shall be valid for sixty (60) days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with Section 9-3165(c), except in the case when a similar fee has been paid within the last sixty (60) days. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3167 Inspections and release of the performance bond.

(a) The stormwater control structure shall be inspected by the town, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:

(1) The survey plat showing the stormwater control structure and related easement(s), and the signed easement(s) ready for filing with the Burke County Register of Deeds;

(2) A certification sealed by an engineer or landscape architect (to the extent that general statutes allow) stating that the stormwater control structure is complete and consistent with the approved plans and specifications.

(b) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Town Council at its next regularly scheduled meeting.

(1) If the Town Council approve the inspection report and accepts the certification and deed of easement, the Town shall file the easement with the Burke County Register of Deeds, release up to seventy-five percent (75%) of the value of the performance bond or other security and direct the Burke County Buildings Inspections Department to issue a certificate of occupancy for the stormwater control structure.

(2) If deficiencies are found, the town shall direct that improvements and inspections be made and documents corrected and submitted to the town.

(c) No sooner than one (1) year after date of filing of the deed of easement, and maintenance agreement, the developer may petition the town to release the remaining value of the performance bond or other security. Upon receipt of said petition, the town shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition and findings to the Town Council.

(1) If the Town Council approve the report and accepts the petition, the developer shall deposit with the town a cash amount equal to that described in Section 9-3164(b)(2), after which the Town Council shall release the performance bond or other security.

(2) If the Town Council does not accept the report and rejects the petition, the town shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

(d) A certificate of occupancy from the Burke County Buildings Inspections Department shall not be issued for any building within the permitted development until the Town Council has approved the stormwater control structure, as provided in Section 9-3167(b).

(e) All stormwater control structures shall be inspected at least on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved or supplied by the North Carolina Division

of Environmental Management. Annual inspections shall begin within one (1) year of filing date of the deed for the stormwater control structure.

(f) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation and maintenance plan or manual. After notification by the owning entity, the town shall inspect and approve the completed improvements. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3168 Remedies.

(a) If any subdivision, development and/or land use is found to be in violation of this article, the town may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of fifty dollars (\$50), institute actions or proceedings to restrain, correct, or abate the violations; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the North Carolina Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6A. Each day the violation continues shall constitute a separate offense.

(b) If the Watershed Administrator finds that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3169 Sanctions.

In addition to the remedies described in Section 9-3168 of this chapter and consistent with G.S. 160A-175, the Town Council may seek enforcement of this chapter by assessing a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the chapter. Such violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the rules of civil procedure in general and Rule 65 in particular. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with

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sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. Enforcement of this chapter may be by any one, all or a combination of the remedies authorized in this chapter. Each day's continuing violation shall be a separate and distinct offense. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3170 ~~Criminal~~pPenalties.

~~—Any person violating any provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. 14-4. The maximum fine for each offense shall not exceed five hundred dollars (\$500). Each day that the violation continues shall constitute a separate offense. (Ord. of 1/10/05; Ord. of 12/6/10) Any person found guilty of violating any provisions of this article shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.~~

Section 9-3171 through section 9-3180 reserved.

ARTICLE O
Legal Status Provisions

Section 9-3181 Conflict with other regulations.

(a) Whenever the regulations of this chapter require a greater width or size of yards, or other open space, or require a lower height of buildings, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statutes, the regulations and requirements of this chapter shall govern.

(b) Whenever the provisions of any other statute require more restrictive standards than are required by this chapter, the provisions of such statute shall govern. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3182 Repeal of existing zoning ordinance.

All zoning ordinances or parts of same now in effect in the town are hereby repealed; provided, however, that all suits at law or in equity and/or all prosecutions resulting from the violation of any zoning ordinance heretofore in effect, which are now pending in any of the courts of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this chapter but shall be prosecuted to their finality the same as if this chapter had not been adopted; any and all violations of existing zoning ordinances, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this chapter shall be so construed as to abandon, abate, or dismiss any litigation or prosecution now pending, and/or which may have heretofore been instituted or prosecuted. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3183 Validity.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3184 Enactment.

The Mayor and Town do hereby ordain and enact into law these articles and sections on this 10th day of January, 2005. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3185 through section 9-3194 reserved.

ARTICLE P
Telecommunications Tower Ordinance

Section 9-3195 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

(a) Alternative tower structure. Alternative tower structure shall mean clock towers, sculptures, bell steeples, light poles and similar alternative-design mounting structures that conceal the presence of antennas or towers and are architecturally compatible with the area.

(b) Pre-existing towers and antennas. Pre-existing towers and antennas shall mean any tower or antenna on which a permit has been properly issued prior to the effective date of this chapter.

(c) Telecommunications tower. Telecommunications tower shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, personal communications service towers (PCS), microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. This definition does not include any structure erected solely for a residential, non-commercial individual use, such as television antennas, satellite dishes or amateur radio antennas. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3196 General guidelines and requirements.

(a) Purpose; goals. The purpose of this article is to establish general guidelines for the siting of towers and antennas. The goals of this article are to: (i) encourage the location of towers in non-residential/non-historical areas and minimize the total number of towers throughout the community, (ii) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently; (iii) encourage strongly the joint use of new and existing tower sites, (iv) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal, and (v) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.

(b) Principal use. Telecommunication towers shall be considered principal uses. Alternative tower structures may be considered principal or accessory uses. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including, but not limited to, setback requirements, lot size and coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots. (Ord. of 1/10/05; Ord. of 12/6/10)

Section 9-3197 Administrative approved uses.

The following uses may be approved by the Zoning Administrator after conducting an administrative review:

(a) Installing an antenna on an existing structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non- residential structure)

in any zoning district that is more than fifty (50) feet in height, so long as such addition does not add more than twenty (20) feet to the height of the existing structure;

(b) Installing an antenna on an existing non-residential structure other than a tower (such as a building, sign, light pole, water tower, utility pole or other free-standing, non-residential structure) in any commercial or industrial zoning district that is less than fifty (50) feet in height so long as such addition does not add more than twenty (20) feet to the height of the existing structure;

(c) Installing an antenna on an existing tower of any height, including a pre-existing tower and further including the placement of additional buildings or other supporting equipment used in connection with said antenna, so long as the addition of said antenna adds no more than twenty (20) feet to the height of said existing tower;

(d) Locating any alternative tower structure in any zoning district if, in the judgment of the Zoning Administrator, it is in conformity with the goals set forth in Section 9-3196(a) of this article;

(e) Replacing an existing tower which adds no more than twenty (20) feet to the overall height of the existing structure.

(f) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in the B-2 General Business District and the M-1 General Manufacturing District provided that such towers and antennas shall be located within seven hundred fifty (750) feet of the Interstate 40 right-of-way and provided that the following requirements are also met:

(1) Evidence must be provided which establishes that the communications tower is structurally designed to support at least one (1) additional user and the application includes a statement that the owner of the tower is willing to permit other user(s) to attach communication facilities, on a commercially reasonable basis, which do not interfere with the primary purpose of the tower. The tower owner may require that such other users agree to negotiate regarding reasonable compensation for any liability which may result from such attachment. The site plan shall show a location for at least one equipment building in addition to that proposed for use by the applicant. Priority for co-location on the proposed tower shall be given to antennas that will serve a public safety need for the community.

(2) In order to provide spatial separation and create a visual block from adjacent properties and streets, a buffer shall be installed around the outside of all improvements on the site, including the tower and guy anchors, any ground buildings or equipment, and security fencing. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection. Buffering shall be required as stated in Section 9-3046.

(3) The base of the tower and each guy anchor shall be surrounded by a security fence or wall at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building over eight (8) feet in height. The tower's guy anchors may be screened or fenced separately in order to comply with the requirements of this subsection.

(4) No outside storage shall be allowed on any telecommunication facility site.

(5) Associated buildings shall not be used as a place of employment for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.

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(6) The telecommunications tower shall meet all applicable Federal Aviation Administration (FAA) standards and shall not restrict or interfere with air traffic or air travel from or to any existing or proposed airport. Any lighting shall not project onto surrounding residential property.

(7) The minimum lot size requirement shall be in accordance with the zoning district where the tower is proposed to be located or the setback requirements of subsection (11), whichever is greater.

(8) The color of the tower shall be neutral, except to the extent required by federal law, so as to minimize its visual impact.

(9) In order to protect the public from unnecessary exposure to electromagnetic radiation, the tower owner shall provide documentation, such as a signed affidavit, indicating that the power density levels do not exceed levels certified by the FCC.

(10) No commercial advertising shall be allowed on the facility's site.

(11) Setback of the base of the tower from all adjacent property lines shall be one (1) foot for each foot in height. To encourage shared use of towers, applications for towers which will operate with more than one user immediately upon completion may have a ten percent (10%) reduction in the required setbacks, but in no case shall the setback be less than those required for the underlying zoning district. Also, to encourage the construction of monopole structures, monopole towers may have a sixty (60%) reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. To encourage location of towers in existing forested areas with a minimum depth of sixty-five (65) feet, the tower may have a twenty (20%) reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. These reduced setbacks shall not be cumulative. Said setback reductions shall only be allowed upon a professional engineering certification which states that the structures construction will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.

(12) Notice shall be provided to the Zoning Administrator when the tower is placed out of service. Towers which are not used for a period of six (6) months or more shall be removed by the owner within one hundred twenty (120) days of receipt of notification to that effect.

(13) Monopole construction for all new telecommunication towers shall be required. Stealth technology and application is encouraged to be consistent with the surrounding area.

(14) A telecommunications tower shall not exceed the maximum height of one hundred ninety-nine (199) feet above ground level.

(g) Locating a telecommunication tower on town owned property in any zoning district anywhere in the town limits as a principal or accessory use if, in the judgment of the Zoning Administrator, it is in conformity with goals set forth in Section 9-3196(a) of this article. (Ord. of 1/10/05; Ord. of 12/6/10)

ARTICLE Q
Flood Damage Prevention

Section 9-3201 Statutory authorization, findings of fact, purpose and objectives.

Section 9-3201.1 Statutory authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare. Therefore, the Town Council of the Town of Valdese, North Carolina, does ordain as follows.

(Ord. of 8/6/07)

Section 9-3201.2 Findings of fact.

(1) The flood prone areas within the jurisdiction the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards. (Ord. of 8/6/07)

Section 9-3201.3 Statement of purpose.

It is the purpose of this article to promote public health, safety, and general welfare and to public and private losses due to flood conditions within flood prone areas by provisions designed to:

(1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands. (Ord. of 8/6/07)

Section 9-3201.4 Objectives.

The objectives of this article are to:

(1) Protect human life, safety, and health;

(2) Minimize expenditure of public money for costly flood control projects;

- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) Minimize prolonged business losses and interruptions;
 - (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
 - (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
 - (7) Ensure that potential buyers are aware that property is in a special flood hazard area.
- (Ord. of 8/6/07)

Section 9-3202 Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Accessory structure (appurtenant structure). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building). An extension or increase in the floor area or height of a building or structure.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this article.

Area of shallow flooding. A designated zone AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard. See Special Flood Hazard Area (SFHA).

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Base flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a "special flood hazard area", it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "freeboard", establishes the regulatory flood protection elevation".

Building. See Structure.

Chemical storage facility. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

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.

Disposal. As defined in G.S. 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

Elevated building. A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment. The advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing manufactured home park or manufactured home subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood insurance. The insurance coverage provided under the National Flood Insurance Program.

Flood insurance rate map (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood insurance study (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Flood prone area. See Floodplain.

Flood zone. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floodplain. Any land area susceptible to being inundated by water from any source.

Floodplain Administrator. The individual appointed to administer and enforce the floodplain management regulations.

Floodplain development permit. Any type of permit that is required in conformance with the provisions of this article, prior to the commencement of any development activity.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations. This article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any

combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Freeboard. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation plus the freeboard establishes the "regulatory flood protection elevation".

Functionally dependent facility. A facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hazardous waste management facility. As defined in G.S. 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest adjacent grade (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic structure. Any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a local inventory of historic landmarks in communities with a "certified local government (CLG) program"; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a "certified local government (CLG) program".

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Lowest adjacent grade (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest floor. Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term manufactured home does not include a “recreational vehicle”.

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (actual cash value); or adjusted tax assessed values.

Mean sea level. For purposes of this article, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New construction. Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-encroachment area. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the flood insurance study report.

Post-FIRM. Construction or other development for which the “start of construction” occurred on or after the effective date of the initial flood insurance rate map.

Pre-FIRM. Construction or other development for which the “start of construction” occurred before the effective date of the initial flood insurance rate map.

Principally above ground. That at least fifty-one percent (51%) of the actual cash value of the structure is above ground.

Public safety and/or nuisance. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle (RV). A vehicle, which is:

- (a) Built on a single chassis;
- (b) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference level. The top of the lowest floor for structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO.

Regulatory flood protection elevation. The “base flood elevation” plus the “freeboard”. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two (2) feet of freeboard. In special flood hazard areas where

no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Remedy a violation. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage yard. Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid waste disposal facility. Any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid waste disposal site. As defined in G.S. 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special flood hazard area (SFHA). The land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 9-3203.2 of this article.

Start of construction. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start 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 piles, 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial damage. Damage of any origin sustained by a structure during any one (1)-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred. See definition of substantial improvement.

Substantial improvement. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one (1)-year period for which the cost equals or exceeds fifty percent (50%) of the market value of the structure

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before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

Variance. A grant of relief from the requirements of this article.

Violation. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 9-3204 and Section 9-3205 is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. of 8/6/07)

Section 9-3203 General provisions.

Section 9-3203.1 Lands to which article applies.

This article shall apply to all special flood hazard areas within the jurisdiction of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability. (Ord. of 8/6/07)

Section 9-3203.2 Basis for establishing the special flood hazard areas.

(a) The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM), for Burke County dated September 5, 2007 which are adopted by reference and declared to be a part of this article.

(b) The initial flood insurances rate maps are as follows for the jurisdictional areas at the initial date:

- (1) Town of Valdese, dated July 3, 1986.
- (2) Burke County Unincorporated Area, dated June 17, 1991. (Ord. of 8/6/07)

Section 9-3203.3 Establishment of floodplain development permit.

A Floodplain development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of Section 9-3203.2 of this article. (Ord. of 8/6/07)

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 9-3203.4 Compliance.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this article and other applicable regulations. (Ord. of 8/6/07)

Section 9-3203.5 Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. of 8/6/07)

Section 9-3203.6 Interpretation.

In the interpretation and application of this article all provisions shall be:

- (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (Ord. of 8/6/07)

Section 9-3203.7 Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This article does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. (Ord. of 8/6/07)

Section 9-3203.8 Penalties for violation.

~~Violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense by a fine not exceeding two hundred dollars (\$200.00) or imprisonment not to exceed thirty (30) days, or both. In addition to the misdemeanor penalty, a violation of this article shall also be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) each day such violation continues. Each day's continuing violation shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. of 8/6/07)~~ A violation of the provisions of this article or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations. Nothing herein contained

shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 9-3204 Administration.

Section 9-3204.1 Designation of Floodplain Administrator.

The Town Planning Director or his designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this article. (Ord. of 8/6/07)

Section 9-3204.2 Floodplain development application, permit and certification requirements.

(1) Application requirements. Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

2. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in Section 9-3203.2, or a statement that the entire lot is within the special flood hazard area;

3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 9-3203.2;

4. The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 9-3203.2;

5. The base flood elevation (BFE) where provided as set forth in Sections 9-3203.2, 9-3204.3, or 9-3205.4;

6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(b) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

2. Elevation in relation to mean sea level to which any nonresidential structure in zone AE, A or AO will be flood-proofed; and

3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

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(c) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this article are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 9-3205.2 (4)(c) when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30;

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Section 9-3205.2, subsections (6) and (7) of this article are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit requirements. The floodplain development permit shall include, but not be limited to:

- (a) A description of the development to be permitted under the floodplain development permit.

- (b) The special flood hazard area determination for the proposed development in accordance with available data specified in Section 9-3203.2.

- (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

- (d) The regulatory flood protection elevation required for the protection of all public utilities.

- (e) All certification submittal requirements with timelines.

- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

- (g) The flood openings requirements, if in zones A, AO, AE or A1-30.

- (3) Certification requirements.

- (a) Elevation certificates.

1. An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain

Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

2. A final as-built elevation certificate (FEMA Form 81-31) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) Floodproofing certificate. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(c) If a manufactured home is placed within zone A, AO, AE, or A1-30 and the elevation of the chassis is more than thirty-six (36) inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 9-3205.2(3)(b).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification exemptions. The following structures, if located within zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

1. Recreational vehicles meeting requirements of Section 9-3205.2 (6)(a);
2. Temporary structures meeting requirements of Section 9-3205.2 (7); and

3. Accessory structures less than one hundred fifty (150) square feet meeting requirements of Section 9-3205.2 (8). (Ord. of 8/6/07)

Section 9-3204.3 Duties and responsibilities of the Floodplain Administrator.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this article have been satisfied.

(2) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, etc.) May be required.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 9-3205.6 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 9-3204.2 (3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 9-3204.2 (3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 9-3204.2 (3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 9-3204.2 (3) and Section 9-3205.2 (2).

(10) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(11) When base flood elevation (BFE) data has not been provided in accordance with Section 9-3203.2, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 9-3205.4 5 (2)(b), in order to administer the provisions of this article.

(12) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 9-3203.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this article.

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(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records that pertain to the administration of this article and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

~~(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.~~ Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this article, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Any person found guilty of violating a stop work order shall be subject to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

(17) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(18) Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Section 9-3204.4.

(20) Review, provide input, and make recommendations for variance requests.

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(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 9-3203.2 of this article, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR). (Ord. of 8/6/07)

Section 9-3204.4 Corrective procedures.

(1) Violations to be corrected. When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(2) Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(a) That the building or property is in violation of the floodplain management regulations;

(b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(3) Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the flood damage prevention ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than 180 (one hundred eighty) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

~~(5) Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court. (Ord. of 8/6/07)~~ Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, he or she shall be subject to a civil penalty in the amount of

fifty dollars (\$50.00) per day for each day the violation continues, to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days after he or she has been cited for the violations.

Section 9-3204.5 Variance procedures.

(1) The Board of Adjustment as established by the town, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this article.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

(a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(b) Functionally dependent facilities if determined to meet the definition as stated in Section 9-3202 of this article, provided provisions of Section 9-3204.5 (9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(c) Any other type of development, provided it meets the requirements of this section.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location as defined under Section 9-3202 of this article as a functionally dependent facility, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

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(6) Upon consideration of the factors listed above and the purposes of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this article.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for variances.

(a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship;
- and

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the special flood hazard area.

(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(d) The use complies with all other applicable federal, state and local laws.

(e) The town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance. (Ord. of 8/6/07)

Section 9-3205 Provisions for flood hazard reduction.

Section 9-3205.1 General standards.

In all special flood hazard areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this article, shall meet the requirements of "new construction" as contained in this article.

(9) Nothing in this article shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this article.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 9-3204.5(10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of Section 9-3204.2(3).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

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(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(15) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(16) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply. (Ord. of 8/6/07)

Section 9-3205.2 Specific standards.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in Section 9-3203.2, Section 9-3205.4, the following provisions, in addition to the provisions of Section 9-3205.1, are required:

(1) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 9-3202 of this article.

(2) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Section 9-3202 -of this ~~article~~**Article**. Structures located in A, AE, AO, and A1-30 zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO zones, the floodproofing elevation shall be in accordance with Section 9-3205.7(2). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 9-3204.2 (3), along with the operational and maintenance plans.

(3) Manufactured homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 9-3202 of this article.

(b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be

supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 9-3205.2(4).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local emergency management coordinator.

(4) Elevated buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

(c) Shall include, in zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

1. A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;

2. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

3. If a building has more than one (1) enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

4. The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) Recreational vehicles. Recreational vehicles shall either:

(a) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(b) Meet all the requirements for new construction.

(7) Temporary non-residential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of seventy-two (72) hours before landfall of a hurricane or immediately upon flood warning notification);

(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(8) Accessory structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 9-3205.1(1);

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(f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 9-3205.1(4); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of Section 9-3205.2 (4)(c).

An accessory structure with a footprint less than one hundred fifty (150) square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 9-3204.2(3).

(Ord. of 8/6/07)

Section 9-3205.3 reserved.

Section 9-3205.4 Standards for floodplains without established base flood elevations.

Within the special flood hazard areas designated as approximate zone A and established in Section 9-3203.2, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 9-3205.1 shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five (5) times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(a) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this article and shall be elevated or floodproofed in accordance with standards in Sections 9-3205.1 and 9-3205.2.

(b) When floodway data is available from a federal, state, or other source, all new construction and substantial improvements within floodway areas shall also comply with the requirements of Sections 9-2305.2 and 9-3205.6.

(c) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with Section 9-3203.2, and utilized in implementing this article. However, this requirement may be waived if the development ensures all building envelopes exclude any special flood hazard areas.

(d) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Section 9-3202. All other applicable provisions of Section 9-3205.2 shall also apply. (Ord. of 8/6/07)

Section 9-3205.5 Standards for riverine floodplains with ~~bfe~~-BFE but without established floodways or non-encroachment areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards of 9-3205.1 and 9-3205.2; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community. (Ord. of 8/6/07)

Section 9-3205.6 Floodways and non-encroachment areas.

Areas designated as floodways or non-encroachment areas Are located within the special flood hazard areas established in 9-3203.2. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in 9-3205.1 and 9-3205.2, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice according to FEMA guidelines and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
 - (b) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If Section 9-3205.6(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this article.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
 - (a) The anchoring and the elevation standards of Section 9-3205.2(3); and
 - (b) The no encroachment standard of Section 9-3205.6(1). (Ord. of 8/6/07)

Section 9-3205.7 Standards for areas of shallow flooding (zone AO).

Located within the special flood hazard areas established in Section 9-3203.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 9-

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3205.1 and Section 9-3205.2, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 9-3205.7(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 9-3204.2(3) and Section 9-3205.2(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures. (Ord. of 8/6/07)

Section 9-3206 Legal status provisions.

Section 9-3206.1 Effect on rights and liabilities under the existing flood damage prevention ordinance.

This article in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted May 4, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this article shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Valdese enacted on May 4, 1987, as amended, which are not reenacted herein are repealed. (Ord. of 8/6/07)

Section 9-3206.2 Effect upon outstanding floodplain development permits.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this article; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this article. (Ord. of 8/6/07)

Section 9-3206.3 Effective date.

This article shall become effective August 6, 2007.
(Ord. of 8/6/07)

ARTICLE R
Phase II Stormwater

Section 9-3301 General provisions.

Section 9-3301.1 Title.

This article shall be officially known as "The Phase II Stormwater Ordinance." It is referred to herein as "this article." (Ord. of 9/3/13)

Section 9-3301.2 Authority.

The Town of Valdese (hereinafter referred to as the Town) is authorized to adopt this article pursuant to North Carolina law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; City Charter; G.S. 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; Chapter 160A, §§ 174, 185. (Ord. of 9/3/13)

Section 9-3301.3 Findings.

It is hereby determined that:

(1) Development and redevelopment alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

(2) These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology that are harmful to public health and safety as well as to the natural environment; and

(3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

(4) Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt minimum stormwater controls such as those included in this article.

(5) Therefore, the Town establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge. (Ord. of 9/3/13)

Section 9-3301.4 Purpose.

(a) General. The purpose of this article is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment as well as illicit discharges into municipal stormwater systems. It has been determined that proper management of construction-related and post-development

stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

(b) Specific. This article seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protects the integrity of watersheds and preserves the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.

(8) Controlling illicit discharges into the municipal separate stormwater system. (Ord. of 9/3/13)

Section 9-3301.5 Applicability and jurisdiction.

(a) General. Beginning with and subsequent to its effective date, this article shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (b) of this section, Exemptions.

(b) Exemptions.

(1) Development that cumulatively disturbs less than one (1) acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

(2) Redevelopment that cumulatively disturbs less than one (1) acre and is not part of a larger common plan of development or sale is exempt from the provisions of this article.

(3) Development and redevelopment that disturb less than one (1) acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

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(4) Activities that are exempt from permit requirements of Section 404 of the Federal Clean Water Act as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this article.

(c) No development or redevelopment until compliance and permit. No development or redevelopment shall occur except in compliance with the provisions of this article or unless exempted. No development for which a permit is required pursuant to this article shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(d) Map.

(1) The provisions of this article shall apply within the areas designated on the map titled "Town of Valdese Zoning Map." The Zoning Map and all explanatory matter contained thereon accompanies and is hereby made a part of this article.

(2) The Zoning Map shall be kept on file by the Valdese Planning Director and shall be updated to take into account changes in the land area covered by this article. In the event of a dispute, the applicability of this article to a particular area of land or BMP shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances. (Ord. of 9/3/13)

Section 9-3301.6 Interpretation.

(a) Meaning and intent. All provisions, terms, phrases, and expressions contained in this article, shall be construed according to the general and specific purposes set forth in Section 9-3301.4, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Town's Code of Ordinances, the meaning and application of the term in this article shall control for purposes of application of this article.

(b) Text controls in event of conflict. In the event of a conflict or inconsistency between the text of this article and any heading, caption, figure, illustration, table, or map, the text shall control.

(c) Authority for interpretation. The Stormwater Administrator has authority to determine the interpretation of this article. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within thirty (30) days. The Stormwater Administrator shall keep on file a record of all written interpretations of this article.

(d) References to statutes, regulations, and documents. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(e) Computation of time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town. References to days are calendar days unless otherwise stated.

(f) Delegation of authority. Any act authorized by this article to be carried out by the Stormwater Administrator of the Town may be carried out by his or her designee.

(g) Usage.

(1) Mandatory and discretionary terms. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one (1) or more of the connected items, conditions, provisions or events apply.

(3) Tense, plurals, and gender. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(h) Measurement and computation. Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site. (Ord. of 9/3/13)

Section 9-3301.7 Design Manual.

(a) Reference to Design Manual.

(1) The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the Design Manual as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.

(2) The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

(b) Relationship of Design Manual to other laws and regulations. If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

(c) Changes to standards and specifications. If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this article but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this article with regard to the application. (Ord. of 9/3/13)

Section 9-3301.8 Relationship to other laws, regulations and private agreements.

(a) Conflict of laws. This article is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this article are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

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(b) Private agreements. This article is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this article are more restrictive or impose higher standards or requirements than such an easement, covenant, or other private agreement, the requirements of this article shall govern. Nothing in this article shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this article. In no case shall the Town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties. (Ord. of 9/3/13)

Section 9-3301.9 Severability.

If the provisions of any section, subsection, paragraph, subdivision or clause of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this article. (Ord. of 9/3/13)

Section 9-3301.10 Effective date and transitional provisions.

(a) Effective date. This article shall take effect on _____

(b) Final approvals, complete applications.

(1) All development and redevelopment projects for which complete and full applications were submitted and approved by the Town prior to the effective date of this article and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development or redevelopment shall be exempt from complying with all provisions of this article dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions, including but not limited to illicit discharge provisions.

(2) A phased development plan shall be deemed approved prior to the effective date of this article if it has been approved by all necessary government units, it remains valid, unexpired, unrevoked and not otherwise terminated, and it shows:

a. For the initial or first phase of development, the type and intensity of use for a specific parcel or parcels, including at a minimum, the boundaries of the project and a subdivision plan that has been approved.

b. For any subsequent phase of development, sufficient detail so that implementation of the requirements of this article to that phase of development would require a material change in that phase of the plan.

(c) Violations continue. Any violation of provisions existing on the effective date of this article shall continue to be a violation under this article and be subject to penalties and enforcement under this article unless the use, development, construction, or other activity complies with the provisions of this article. (Ord. of 9/3/13)

Section 9-3302 Administration and procedures.**Section 9-3302.1 Review and decision-making entities.**

(a) Stormwater Administrator.

(1) Designation. A Stormwater Administrator shall be designated by the Town Manager to administer and enforce this article.

(2) Powers and duties. In addition to the powers and duties that may be conferred by other provisions of the Town Code of Ordinances, Land Development Code, and other laws, the Stormwater Administrator shall have the following powers and duties under this article:

a. To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this article.

b. To make determinations and render interpretations of this article.

c. To establish application requirements and schedules for submittal and review of applications and appeals. To enforce the provisions of this article in accordance with its enforcement provisions.

d. To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this article.

e. To provide expertise and technical assistance to the Town of Valdese Planning Board (hereinafter referred to as the Planning Board) or Town Council, upon request.

f. To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

g. To take any other action necessary to administer the provisions of this article. (Ord. of 9/3/13)

Section 9-3302.2 Review procedures.

(a) Permit required; must apply for permit. A stormwater permit is required for all development and redevelopment unless exempt pursuant to this article. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(b) Effect of permit.

(1) A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs.

(2) The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this article, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this article.

(c) Authority to file applications. All applications required pursuant to this Code shall be submitted to the Stormwater Administrator by the land owner or the land owner's duly authorized agent.

(d) Establishment of application requirements, schedule, and fees.

(1) Application contents and form. The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall

describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this article.

(2) Submission schedule. The Stormwater Administrator shall establish a submission schedule for applications. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications, and that the various stages in the review process are accommodated.

(3) Permit review fees. The Town Council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(e) Submittal of complete application.

(1) Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

(2) An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this article, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a complete application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(f) Review. Within fifteen (15) working days after a complete application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this article.

(1) Approval. If the Stormwater Administrator finds that the application complies with the standards of this article, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this article. The conditions shall be included as part of the approval.

(2) Fails to comply. If the Stormwater Administrator finds that the application fails to comply with the standards of this article, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) Revision and subsequent review.

a. A complete revised application shall be reviewed by the Stormwater Administrator within fifteen (15) working days after its re-submittal and shall be approved, approved with conditions or disapproved.

b. If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

c. One (1) re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee, as established pursuant to this article. (Ord. of 9/3/13)

Section 9-3302.3 Applications for approval.

(a) Concept plan and consultation meeting.

(1) Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Local watershed plans, the Future Land Use and Transportation Plan, and other relevant resource protection plans should be consulted in the discussion of the concept plan.

(2) To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

a. Existing conditions/proposed site plans. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation; proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

b. Natural resources inventory. A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

c. Stormwater management system concept plan. A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(b) Stormwater management permit application.

(1) The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this article, including Section 9-3303, Standards. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply

with applicable standards and policies found in the Design Manual, and that the designs and plans ensure compliance with this article.

(2) The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to Section 9-3302.2(e).

(c) As-built plans and final approval.

(1) Upon completion of a project, and before a permanent certificate of occupancy shall be granted, the applicant shall certify that the completed project is in accordance with the approved stormwater management plans and designs, and shall submit actual "as-built" plans for all stormwater management facilities or practices after final construction is completed.

(2) The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this article. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(d) Other permits. No permanent certificate of compliance or occupancy shall be issued by the Planning and Development Department without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Planning and Development Director may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred. (Ord. of 9/3/13)

Section 9-3302.4 Approvals.

(a) Effect of approval. Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(b) Time limit/expiration.

(1) An approved plan shall become null and void if the applicant fails to make substantial progress on the site within one (1) year after the date of approval. The Stormwater Administrator may grant a single, one (1)-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

(2) In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights. (Ord. of 9/3/13)

Section 9-3302.5 Appeals.

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(a) Right of appeal. Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this article made by the Stormwater Administrator, may file an appeal to the Planning Board within thirty (30) days.

(b) Filing of appeal and procedures.

(1) Appeals shall be taken within the specified time period by filing a written notice of appeal specifying the grounds for appeal. The Stormwater Administrator shall transmit to the Planning Board all documents constituting the record on which the decision appealed from was taken.

(2) The hearing conducted by the Planning Board shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(c) Review by Superior Court. Every decision of the Planning Board shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court of Burke County within thirty (30) days of the final decision. (Ord. of 9/3/13)

Section 9-3003 Standards.

Section 9-3303.1 General standards.

All development and redevelopment to which this article applies shall comply with the standards of this section. (Ord. of 9/3/13)

Section 9-3303.2 Development standards for low-density projects.

Low-density projects shall comply with each of the following standards:

(a) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(b) All built-upon area shall be at a minimum of thirty (30) feet landward of all perennial and intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

(c) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. (Ord. 9/3/13)

Section 9-3303.3 Development standards for high-density projects.

High-density projects shall implement stormwater control measures that comply with each of the following standards:

(a) The measures shall control and treat stormwater runoff from the first inch of rain. Runoff volume drawdown time shall be a minimum of forty- eight (48) hours, but not more than one hundred twenty (120) hours.

(b) Must discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for the one (1)-year, twenty-four (24)-hour storm.

(c) All structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of eighty-five percent (85%) average annual removal for total suspended solids (TSS).

(d) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the Design Manual.

(e) All built-upon area shall be at a minimum of thirty (30) feet landward of all perennial and intermittent surface waters. A surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233 (3)(a) or similar site-specific determination made using Division-approved methodology.

(f) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans. (Ord. of 9/3/13)

Section 9-3303.4 Standards for stormwater control measures.

(a) Evaluation according to contents of Design Manual. All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this article shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this article.

(b) Determination of adequacy; presumptions and alternatives. Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the Design Manual will be presumed to meet the minimum water quality and quantity performance standards of this article. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the Design Manual, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this article. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

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(c) Separation from seasonal high water table. For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least twelve (12) inches of naturally occurring soil above the seasonal high-water table. (Ord. of 9/3/13)

Section 9-3303.5 Variances.

(a) Any person may petition the Planning Board for a variance granting permission to use the person's land in a manner otherwise prohibited by this article. To qualify for a variance, the petitioner must show all of the following:

- (1) Unnecessary hardships would result from strict application of this article.
- (2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.
- (3) The hardships did not result from actions taken by the petitioner.
- (4) The requested variance is consistent with the spirit, purpose, and intent of this article; will secure public safety and welfare; and will preserve substantial justice.

(b) The Town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(c) Statutory exceptions. Notwithstanding subdivision (a) of this section, exceptions from the thirty (30)-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

(1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located ~~fifteen~~-fifteen (15) feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters. (Ord. of 9/3/13)

Section 9-3304 Maintenance.**Section 9-3304.1 General standards for maintenance.**

(a) Function of BMPs as intended. The owner of each structural BMP installed pursuant to this article shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(b) Annual maintenance inspection and report.

(1) The person responsible for maintenance of any structural BMP installed pursuant to this article shall submit to the Stormwater Administrator an inspection report from one (1) of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

- a. The name and address of the land owner;
- b. The recorded book and page number of the lot of each structural BMP;
- c. A statement that an inspection was made of all structural BMPs;
- d. The date the inspection was made;
- e. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this article; and
- f. The original signature and seal of the engineer, surveyor, or landscape architect.

(2) All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one (1) year from the date of as-built certification and each year thereafter on or before the date of the as-built certification. (Ord. of 9/3/13)

Section 9-3304.2 Operation and maintenance agreement.

(a) In general.

(1) Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this article, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this article, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the Town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the Town to assume responsibility for the structural BMP.

(3) The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be

recorded with the Burke County Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within fourteen (14) days following its recordation.

(b) Special requirement for homeowners' and other associations. For all structural BMPs required pursuant to this article and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Provide financial security, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed by the association and its members for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the Town of Valdese shall first consent to the expenditure.

(3) An annual certified financial statement shall be provided to the Town along with the required annual inspection report.

(4) Granting to the Town right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

(5) Allowing the Town to recover from the association and its members any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town all of its expended costs, after forty-five (45) days written notice, shall constitute a breach of the agreement. In case of a deficiency, the Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

(6) A statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and the Town shall not be liable to any person for the condition or operation of structural BMPs.

(7) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.

(8) A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance. (Ord. of 9/3/13)

Section 9-3304.3 Inspection program.

(a) Inspections and inspection programs by the Town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records;

sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

(b) If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties. (Ord. of 9/3/13)

Section 9-3304.4 Performance security for installation and maintenance.

(a) Required. The Town shall require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are

(1) Installed by the permit holder as required by the approved stormwater management plan, and

(2) Maintained by the owner as required by the operation and maintenance agreement.

(b) Amount.

(1) Installation. The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus twenty-five percent (25%).

(2) Maintenance. The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the cost of borrowing minus a reasonable estimate of long-term inflation.

(c) Uses of performance security.

(1) Forfeiture provisions. The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this article, approvals issued pursuant to this article, or an operation and maintenance agreement established pursuant to this article.

(2) Default. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the Town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) Costs in excess of performance security. If the Town takes action upon such failure by the applicant or owner, the Town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) Refund. Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus twenty-five percent (25%)) of landscaping installation and ongoing

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maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released. (Ord. of 9/3/13)

Section 9-3304.5 Notice to owners.

(a) Deed recordation and indications on plat. The applicable operations and maintenance agreement and conservation easement (if applicable), pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the Burke County Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement and conservation easement (if applicable), shall be recorded with the Burke County Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(b) Signage. To assure compliance with this article, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible. (Ord. of 9/3/13)

Section 9-3304.6 Records of installation and maintenance activities.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five (5) years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator. (Ord. of 9/3/13)

Section 9-3304.7 Nuisance.

The owner of each stormwater BMP, whether structural or non-structural BMP, shall maintain it so as not to create or result in a nuisance condition. (Ord. of 9/3/13)

Section 9-3305 Enforcement and violations.**Section 9-3305.1 General.**

(a) Authority to enforce. The provisions of this article shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the Town.

(b) Violation unlawful. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by this article, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to this article, is unlawful and shall constitute a violation of this article.

(c) Each day a separate offense. Each day that a violation continues shall constitute a separate and distinct violation or offense.

(d) Responsible persons/entities.

(1) Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this article shall be subject to the remedies,

penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

(2) For the purposes of this article, responsible person(s) shall include but not be limited to:

a. Person maintaining condition resulting in or constituting violation. An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this article, or fails to take appropriate action, so that a violation of this article results or persists.

b. Responsibility for land or use of land. The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property. (Ord. of 9/3/13)

Section 9-3305.2 Remedies and penalties.

The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(a) Remedies.

(1) Withholding of certificate of occupancy. The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) Disapproval of subsequent permits and development approvals. As long as a violation of this article continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Director or Planning Board may disapprove, any request for permit or development approval or authorization provided for by this article or other land development ordinances applicable to the land on which the violation occurs.

(3) Injunction, abatements, etc. The Stormwater Administrator, with the written authorization of the Town Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) Correction as public health nuisance, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. 160A-193, the Stormwater Administrator, with the written

authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Stop work order. The Stormwater Administrator may issue a stop work order to the person(s) violating this article. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.

(b) Civil penalties. Violation of this article may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the Town is subject for violations of its Phase II Stormwater permit.

~~(c) Criminal penalties. Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law. (Ord. of 9/3/13)~~

Section 9-3305.3 Procedures.

(a) Initiation/complaint. Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(b) Inspection. The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this article.

(c) Notice of violation and order to correct.

(1) When the Stormwater Administrator finds that any building, structure, or land is in violation of this article, the Stormwater Administrator shall notify, in writing, the property owner or other person violating this article. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town code enforcement personnel, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this article to correct and abate the violation and to ensure compliance with this article.

(d) Extension of time. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On

determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding thirty (30) days. The Stormwater Administrator may grant fifteen (15)-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating this article. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(e) Enforcement after time to correct. After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one (1) or more of the remedies and penalties authorized by this article.

(f) Emergency enforcement. If delay in correcting a violation would seriously threaten the effective enforcement of this article or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by this article. (Ord. of 9/3/13)

Section 9-3306 Definitions.

Section 9-3306.1 Terms defined.

When used in this article, the following words and terms shall have the meaning set forth in this section, unless other provisions of this article specifically indicate otherwise.

Built-upon area (BUA) That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. Built-upon area does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

Department The North Carolina Department of Environment and Natural Resources.

Design Manual The stormwater design manual approved for use in Phase II jurisdictions by the Department. All references herein to the Design Manual are to the latest published edition or revision.

Development Any land-disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil.

Division. The Division of Water Quality in the Department.

High-density project Any project that exceeds the low-density threshold for dwelling units per acre or built-upon area.

Larger common plan of development or sale Any area where multiple separate and distinct construction or land-disturbing activities will occur under one (1) plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

Low-density project

(1) A project is a low -density project if it has no more than two (2) dwelling units per acre or twenty-four percent (24%) built-upon area (BUA) for all residential and non-residential development.

(2) A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for low-density projects and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.

1-year, 24-hour storm The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in twelve (12) months and with a duration of twenty-four (24) hours.

Owner The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. Owner shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of owner under another description in this definition, such as a management entity.

Redevelopment Any development on previously-developed land, other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

Structural BMP A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural BMP includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. Structural BMP is synonymous with "structural practice," "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this article.

Substantial progress For the purposes of determining whether sufficient progress has been made on an approved plan, one (1) or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building

permit for the construction and approval of a building foundation. Substantial progress for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law. (Ord. of 9/3/13)

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ARTICLE S
Regulation of Land Disturbing Activities

Section 9-33401 Purpose.

The purpose of this article is to prevent or minimize stormwater pollution and nuisance conditions associated with land disturbing activities commenced within the Town of Valdese. Nothing in this article shall be construed as creating an exemption from any other local, state, or Federal regulations or permit requirements. (Ord. of 9/3/13)

Section 9-33402 Exemptions.

Activities solely related to agriculture, mining, forestry, or emergency response, as defined in G.S. 113A-52.01, are not subject to this article. (Ord. of 9/3/13)

Section 9-33403 Permit requirements.

(a) No person shall commence any land disturbing activity that will result in the disturbance of one-half ($\frac{1}{2}$) acre (twenty-one thousand, seven hundred eighty (21,780) square feet) or more of land without first obtaining a Grading Permit from the Town. To obtain a Grading Permit, an application shall be submitted to the Stormwater Administrator with required information concerning the proposed land disturbing activity. Such information shall include the purpose of the land disturbance, the identification of the property to be graded and its owner, the identification of the person who will perform the grading and be responsible for restoring a stable ground surface, and a sketch plan of the proposed grading and storm water controls. The sketch plan shall show the planned area to be graded, the current and planned directions of stormwater runoff flow, and the planned measures to control on-site soil erosion and off-site sedimentation. The Stormwater Administrator shall not issue a Grading Permit if the application is incomplete or if the application is for an activity that would likely cause stormwater pollution, a nuisance condition, or some other hazard to public health, safety, or welfare. The Stormwater Administrator may issue the Grading Permit subject to such conditions as the Stormwater Administrator determines are necessary in order to prevent or minimize stormwater pollution or nuisance conditions associated with land disturbing activities.

(b) If the proposed activity will disturb one (1) acre or more of land, the activity will be subject to the State of North Carolina Sedimentation Pollution Control Act of 1973 and require the filing of a plan with the State Department of Environment and Natural Resources. A plan approved by the State shall be deemed an approved sketch plan for purposes of this article.

(c) If the proposed activity will disturb one (1) acre or more of land, the activity may also be subject to the Town of Valdese Phase II Stormwater Ordinance and require the filing of a plan pursuant to that ordinance. Land disturbance that is part of a larger common plan of development or sale may be subject to the Phase II Stormwater Ordinance even if the initial grading activity will disturb less than one (1) acre of land. A stormwater permit issued under the Phase II Stormwater Ordinance shall be deemed an approved permit under this article.

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(d) If the proposed activity is subject to the Sedimentation Pollution Control Act of 1973 or the Phase II Stormwater Ordinance, the Town shall not issue a Grading Permit until all authorizations required under those laws have been obtained. (Ord. 9/3/13)

Section 9-33404 Control of soil erosion, off-site soil deposits, and other forms of pollution.

(a) If a Grading Permit is issued by the Town, land disturbance may proceed in accordance with the Grading Permit and this article. Barriers, such as silt fence, shall be in place prior to grading in order to contain sediment on site. All reasonable measures, such as gravel aprons, shall be used to prevent the tracking of mud from the site onto public or private streets. The location where stormwater runoff leaves the site shall not be altered, and to the extent practicable, runoff shall not be concentrated. Off-site, adjacent properties shall be protected from damage due to the grading and the resultant runoff. Vegetation, such as grass, shall be planted and established within ninety (90) days from the issuance of the Grading Permit to a degree sufficient to prevent soil erosion. With justification, the Stormwater Administrator may grant an extension of up to ninety (90) additional days.

(b) The Stormwater Administrator may order that work on the site be stopped if it is not in compliance with this article or the Grading Permit. Upon the expiration of the Grading Permit or the Stormwater Administrator ordering that the work be stopped, the Permittee shall cease all grading related activities except as needed to establish vegetation and to control soil erosion and sedimentation. (Ord. 9/3/13)

Section 9-33405 Fees.

The Town may from time to time establish fees relating to Grading Permits such as an application fee and an inspection fee. (Ord. 9/3/13)

ARTICLE T
Illicit Discharges and Connections and Onsite Wastewater

Section 9-3501 Illicit discharges and connections.

(a) Illicit discharges. No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Irrigation water;
- (11) Springs;
- (12) Water from crawl space pumps;
- (13) Footing drains;
- (14) Lawn watering;
- (15) Residential and charity car washing;
- (16) Flows from riparian habitats and wetlands;
- (17) Dechlorinated swimming pool discharges;
- (18) Street wash water; and
- (19) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town.

Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(b) Illicit connections.

(1) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in subsection (a) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

(2) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such

connections, the property owner or the person using said connection shall remove the connection within one (1) year following the effective date of this article. However, the one (1)-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Where it is determined that said connection:

a. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

b. Was made in violation of any applicable regulation or ordinance, other than this section; the Stormwater Administrator as appoint by the Town Manager shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

1. The quantity and complexity of the work,
2. The consequences of delay,
3. The potential harm to the environment, to the public health, and to public and private property, and
4. The cost of remedying the damage.

(c) Spills.

(1) Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

(2) Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Town Fire Chief of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law. (Ord. of 9/3/13)

Section 9-3502 Onsite wastewater.

(a) Onsite wastewater.

(1) Operation and maintenance requirements. New and replaced onsite systems for domestic wastewater installed after the effective date of this article shall be subject to the operation and maintenance requirements of the Burke County Public Health Department.

(2) Standards for operation and maintenance. Onsite systems for domestic wastewater shall be operated and maintained so as to avoid adverse effects on surface water and groundwater. Operation and maintenance of onsite systems for domestic wastewater shall be in accordance with the standards of the Burke County Public Health Department.

(3) Enforcement. The Burke County Public Health Department shall be responsible for the enforcement of the installation, operation, and maintenance standards for onsite systems for

domestic wastewater within the limits of the Town and the extraterritorial jurisdiction, if any. (Ord. of 9/3/13)

Section 9-3503 Remedies and penalties.

The remedies and penalties provided for violations of this article, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(a) Remedies.

(1) Withholding of certificate of occupancy. The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for any building or other improvements constructed or being constructed on the site at which the violation is taking place until the applicant or other responsible person cures the violation.

(2) Disapproval of subsequent permits and development approvals. As long as a violation of this article continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Director or Planning Board may disapprove, any request for approval or authorization provided for by land development ordinances applicable to the land on which the violation is occurring.

(3) Injunction, abatements, etc. The Stormwater Administrator, with the written authorization of the Town Manager, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of this article. Any person violating this article shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) Correction, costs as lien, etc. If the violation is deemed dangerous or prejudicial to the public health or public safety, the Stormwater Administrator, with the written authorization of the Town Manager, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) Civil penalties. Violation of this article may subject the violator to a civil penalty in the amount of fifty dollars (\$50.00) per day for each day the violation continues. The civil penalty may be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within thirty (30) days after notice of the violation is issued by the Stormwater Administrator.

~~—(6) Criminal penalties. Violation of this article may be enforced as a misdemeanor subject to the maximum fine permissible under North Carolina law. (Ord. of 9/3/13)~~

APPENDIX I Traffic

Section 101 Parking prohibited at all times except on Sundays on the following streets (See Section 7-1183):

Street	Location	Side
All streets:	Between and including Eldred Street on east Morganton Street on west, St. Germain Avenue on south, Bobo Avenue on north	Left of centerline

Section 102 Parking is limited to three hours between the hours of 8:00 a.m. and 5:00 p.m. or any day except Saturday, Sunday and public holidays within the district or upon any of its streets as follows (See Section 7-1184):

Street	Location
Main Street	Between Eldred Street and Praley Street
Rodoret Street	Both north and south Rodoret Street
Faet Street	Faet Street SW

(Ord. of 11/7/16)

Section 103 Parking limited to two hours between the hours of 6:00 a.m. and 6:00p.m. on any day except Sundays and public holidays within the district or upon any of the streets as follows (See Section 7-1187):

Street	Location
East Main Street	At Morgan Street southeast to Columbo Street on west
West Main Street	At Morgan Street southeast to Columbo Street on west

Section 104 Parking limited to one hour between the hours of 6:00 a.m. and 6:30 p.m. on any day except Sundays and public holidays within the district upon any of the streets as follows (See Section 7-1184):

Section 105 Parking limited to five minutes (See Section 7-1184):

Section 106 The following streets or portion of streets shall be reserved as stands for the specific purpose and at the exact location described in the following (See Section 7-1174):

CONFIDENTIAL ATTORNEY WORK PRODUCT**Section 107 Diagonal parking.**

All vehicles shall be parked within the lines drawn for parking on the following streets or portions thereof. (See Section 7-1142):

Section 108 Through streets (See Section 7-1081):

Through Street	Location
Massel Avenue	at Rodoret Street (Ord. of 5/7/18)
St. Germain Avenue	at Rodoret Street (Ord. of 5/7/18)

Section 109 Intersections at which "Stop" is required before entering (See Section 7-1083):**Section 110 One-way streets (See Section 7-1072):****Section 111 Left turns to be made to the left of the center of the following intersections (See Section 7-1063):****Section 112 No left turns at following intersections (See Section 7-1063):****Section 113 No right turns at following intersections (See Section 7-1063):****Section 114 No complete or "U" turns at following intersections (See Section 7-1063):****Section 115 Twenty mile per hour speed limit on the following streets (See Section 7-1052(1)):**

Street	Location
W. Main Street (US 64-70)	From Church Street (SR 1538) to Rodoret Street, thence along East Main Street (US 64-70) to Laurel Street (SR 1545)
South Praley Street (SR 1733)	From Massel Street to West Main Street

Section 116 Twenty-five mile per hour speed limit on the following streets (See Section 7-1052(2)):

Street	Location
*Church Street	From a point 0.15 mile south of Dixie Avenue N.W., north to a point 0.15 miles north of Dixie Avenue N.W. (Francis Garrow High School Zone)

CONFIDENTIAL ATTORNEY WORK PRODUCT***Time**

School days,
 7:30 a.m. to 8:30 a.m.
 3:00 p.m. to 4:30 p.m.

***Church Street (SR 1538)**

From a point 0.10 mile south of Dixie Avenue N.W.
 to Washington Avenue (Valdese Junior High School
 Zone)

***Time**

School days, from 30 minutes before
 school begins to 30 minutes after
 school ends (Ord. of 4/5/82)

Hauss Ridge Road (SR 1740)

From SR 1744 to Perkins Road (SR 1740) (Ord. of
 3/1/82)

Hoyle Street

north and south bound (Ord. of 6/4/18)

Perkins Road (SR 1740)

From Hauss Ridge Road (SR 1740) to Bridge #108)
 (Ord. of 3/1/82)

Powell Avenue SW

north and south bound (Ord. of 8/6/18)

Section 117 Thirty mile per hour speed limit on the following streets (See Section 7-1052(2)):

Section 118 Forty mile per hour speed limit on the following streets (See Section 7-1052(4)):

Section 119 Forty-five mile per hour speed limit on the following streets (See Section 7-1053(5)):

Street Location

Eldred Street From southern corporate limit to Pons
 (SR1744)

East Main Street From Micol Creek to a point 0.12 mile east of SR 1547(Ord. of 3/1/82)
 (US 64-70)

Section 120 Fifty mile per hour speed limit on the following streets (See Section 7-1052(6)):

Section 121 Fifty-five mile per hour speed limit on the following streets (See Section 7-1052(7)):

Section 122 Twenty mile per hour speed limit on the following streets (See Section 7-1052(8)):

Street	Location
Laurel Street NE	Between Main Street East and Eldred Street NE

(Ord. of 9/5/17)

Section 123 Twenty-five mile per hour speed limit on the following streets (See Section 7-1052(9)):

Section 124 Thirty mile per hour speed limit on the following streets (See Section 7-1052(10)):

Section 125 Forty mile per hour speed limit on the following streets (See Section 7-1052(11)):

Section 126 Forty-five mile per hour speed limit on the following streets (See Section 7-1052(12)):

Section 127 Fifty mile per hour speed limit on the following streets (See Section 7-1052(13)):

Section 128 Fifty-five mile per hour speed limit on the following streets (See Section 7-1052(14)):

Section 129 The following streets or portions thereof, are designated as passenger loading and unloading zones (See Section 7-1172):

Section 130 The following streets or portions thereof, are designated as commercial loading and unloading zones (See Section 7-1173):

Section 131 Vehicles may turn right on red lights after coming to a complete stop on the following streets (See Section 7-1034(3) a.):

Section 132 Yield right-of-way signs shall be posted at the following locations (See Section 7-1043):

Section 133 Vehicle restrictions on certain streets.

CONFIDENTIAL ATTORNEY WORK PRODUCT

(a) When signs are erected giving notice thereof, it shall be unlawful for any person to operate any vehicle with more ~~then~~than two (2) axles at any time upon any of the following streets or parts of streets:

Street	Direction
Pons Avenue	Southeast

(b) Provided that this section shall not apply to persons operating school buses, vehicles driven to or from property along these streets for purposes of loading or unloading or vehicles being used to provide services such as fire protection, garbage pick-up, and street maintenance.

(c) Violation of this section shall be punish-able upon conviction by a fine not exceeding \$50 or imprisonment not exceeding thirty (30) days, as provided in G.S. 14-4. (Ord. of 10/5/87)

Section 134 (Reserved)

Section 135 Traffic control signals shall be installed at the following locations (See Section 7-1034):

Section 136 (Reserved)

Section 137 Flashing yellow caution signal lights installed at the following locations (See Section 7-1036):

Section 138 The following locations are designated as "No Parking After Business Hours" and "Customer Parking Only" areas.

All parking is prohibited on property owned or controlled by the following businesses except during the business hours of the business operating at the location and parking during such business hours is restricted to parking by the customers of the business (See Section 7-1193):

Location

First Union National Bank

Valdese Gulf

Family Dollar Store

Wachovia Bank and Trust

Company, N.A.

Centel

Flowers Auto Parts

The Rock Drug Store

Better Homes Furnishings

Bubble Brush Car Wash

CONFIDENTIAL ATTORNEY WORK PRODUCT

Colonel's Pantry
 Jack B. Quick
 Ferree's Laundry

Section 139 Parking prohibited between the hours of 9:00 p.m. and 4:00 a.m. on any day along the streets or portions of streets described below (See Section 7-1188):

Section 140 Parking prohibited between the hours of 9:00 p.m. and 4:00 a.m. on any day in any of the municipal parking lots described below (See Section 7-1201):

Street	Location	Side	Description
Main Street	Between Eldred Street and Praley Street	Both	The municipal parking lot located off of Main Street adjacent to the First Union National Bank lot
			The municipal parking lot located off of Main Street adjacent to the Duke Power Company building
			The McGalliard Falls parking lot located off of Church Street
			The McGalliard Falls parking lot adjacent to the ball fields; provided, however, that in the event softball games or other activities organized by the Town of Valdese Recreation Department are continuing after 9:30 p.m., persons may park in this lot until such games or activities end.

Section 141 The following streets are hereby designated as "No Cruising Areas." (See Section 7-1109)

Street	Location
Main Street	Between Eldred Street and Sterling Street
St. Germain Street	Between Laurel Street and Columbo Street
Massell Street	Between Laurel Street and Praley Street
Bobo Street	Between Italy Street and Faet Street

(Res. of 6/6/94)

ORDINANCE DISPOSITION TABLE

Date	Subject	Location
Date	Subject	Location

CONFIDENTIAL ATTORNEY WORK PRODUCT

10/8/79	Water regulations	5-1001, 5-1018 - 5-1020
10/8/79	Water regulations definition	5-1001
3/3/80	Town council meetings	2-1011
8/4/80	Fair housing code	Part 8, Chapter 7
11/3/80	Several amendments	2-1004, 2-2021, 2-7002 - 2-7004, 3-1011, 4-1018, deletes 4-2009, 5-1005, deletes 5-1008
9/14/81	Loitering and disorderly conduct	8-1005
3/1/82	Speed limit	Appendix I, Sec. 116
3/1/82	Speed limit	Appendix I, Sec. 119
4/5/82	Speed limit	Appendix I, Sec. 116
12/6/82	Regulating game rooms	6-1041 - 6-1046
12/6/82	Sewer use ordinance	Part 5, Chapter 3
2/17/83	Charter amendment; economic development	Charter 6.3
5/2/83	Cemetery lot prices	4-3005
11/3/86	Tree ordinance	8-8001 - 8-8019
12/8/86	Town arbor-beautification committee	2-7040 - 2-7047
5/4/87	Areas of operation for game rooms	6-1047
8/3/87	Abolishing Valdese Parks and Recreation Commission	2-7021, deletes 2-7021 - 2-7029
10/5/87	Vehicle restrictions on certain streets	Appendix I, Sec. 133
2/5/90	Abandoned vehicles	Part 8, Chapter 3
4/2/90	Civil penalties - parking	Part 7, Chapter 1, Article S
4/2/90	Parking	7-1188; Appendix I, Sec. 139
4/2/90	Parking	Part 7, Chapter 1, Article P; Appendix I, Sec. 138
4/2/90	Parking	Part 7, Chapter 1, Article Q; Appendix I, Sec. 140
5/6/90	Street vendors	6-1051 - 6-1061
5/7/90	Parking	7-1188; Appendix I, Sec. 139
5/7/90	Parking	Appendix I, Sec. 138
5/7/90	Parking	Part 7, Chapter I, Article Q; Appendix I, Sec. 140
9/3/91	Street address numbers	4-1041 - 4-1043

CONFIDENTIAL ATTORNEY WORK PRODUCT

10/7/91 Alarm systems

3-2041 - 3-2048

Date	Subject	Location
4/6/92	Municipally-owned cemeteries	Part 4, Chapter 3
6/24/92	Parks and recreational facilities	8-9001 - 8-9009
9/8/92	Partial payments of bills	5-1021, 5-3033
//	Fire prevention and protection	3-2021
Res. of 9/8/92	Inspection fee schedule	3-2021(m)
3/1/93	Game rooms	6-1045(1),(3)
//	Fire prevention and protection	3-2021
6/12/00	Gross receipts tax from vehicle lease or rental	2-2051 through 2-2059
6/29/00	Charter amendment; mayor's term of office	Charter Sections 2.3, 3.4
4/1/02	Coasters, roller skates, and similar devices restricted	7-1025
6/3/02	Gross receipts tax on electric power companies	2-2081 through 2-2091
12/8/03	Fire district amendment	3-2031
12/8/03	Vehicle restrictions on certain streets	7-1240
2/2/04	Cemetery lot sales	4-3001
12/6/04	Solid waste	4-2001, 4-2010 through 4-2016, 4-2020 through 4-2027, 4-2030 through 4-2035; deletes former 4-2001 through 4-2010
1/10/05	Zoning amendments; of Ords. of 5/3/93, 6/27/94, 5/6/96, 11/4/96, 4-7-97, 6/23/97, 5/4/98, 5-5-97, 8/2/99	9-3001 through 9-3197; deletes former 9-3001 through 9-3197
8/1/05	Fats, oils and grease control	5-4001 through 5-4013; deletes former 8-4005
6/5/06	Zoning amendment Manufacturing District	- 9-3058, 9-3058.1, 9-3071 through 9-3074, 9-3076 through 9-3079

CONFIDENTIAL ATTORNEY WORK PRODUCT

6/26/06	Zoning amendments - Board of Adjustment, Planning Board and Town Council actions	9-3131, 9-3132, 9-3142, 9-3144 through 9-3146
11/6/06	Amending municipal utilities sewer use	5-3002, 5-3011, 5-3013, 5-3018, 5-3019, 5-3034, 5-3042, 5-3051, 5-3054 through 5-3056, 5-3058, 5-3061, 5-3091, 5-3092, 5-3114, 5-3115
1/8/07	Zoning amendment - watershed protection	9-3111, 9-3111.1, 9-3155
8/6/07	Flood damage prevention	Part 9, Chapter 3, Article Q
9/4/07	Implementing new water conservation procedures	5-1022; deletes former 5-1022
11/5/07	Amending designation of primary fire district	3-2031
11/5/07	Zoning amendment - definitions; General Business District	9-3012, 9-3056, 9-3056.1

Date	Subject	Location
12/3/07	Zoning amendment - permitted uses - crematory	9-3056.1
1/7/08	Zoning amendment - continuing use of nonconforming buildings	9-3032.2
11/3/08	Subdivision ordinance	Part 9, Chapter 2; deleting former Part 9, Chapter 2
1/5/09	Zoning amendment - Office-Institutional District	9-3054, 9-3054.1
1/5/09	Zoning amendment - signs permitted without a permit	9-3100, 9-3106
2/2/09	Discharging firearms	8-6028
6/1/09	Amending separate meters for irrigation systems	5-1004

CONFIDENTIAL ATTORNEY WORK PRODUCT

6/29/09	Personnel policy amendment - FMLA	Part 2, Chapter 2, App. A, Art. VII, Section 17; Art. XI, Section 1
Res. of 1/4/10	Personnel policy amendment - FMLA	Part 2, Chapter 2, App. A, Art. VII, Section 17
2/1/10	Amendment to smoking ordinance	8-5006
6/7/10	Malt beverages and unfortified wine	8-10001 - 8-10007
8/2/10	Rescinding 8-6026 (malt beverages and fortified wine)	repeals 8-6026
12/6/10	Zoning	Part 9, Chapter 3, Articles A through P
6/27/11	Smoking prohibited in Town parks and sports facilities	8-5006 through 8-5010
8/1/11	Animals	8-2008 through 8-2012, 8-2022, deletes 8-2025
11/7/11	Fire prevention and protection	3-2021
12/5/11	Animals	8-2008
Res. of 6/25/12	Sharing sick leave	Part 2, Chapter 2, App. A, Art. VII, Section 13
11/5/12	Sewer use	5-3001, 5-3002, 5-3011, 5-3012, 5-3013, 5-3017, 5-3018, 5-3033, 5-3041, 5-3042, 5-3051 through 5-3058, 5-3060, 5-3061, 5-3063, 5-3072, 5-3073, 5-3081, 5-3091, 5-3092, 5-3093, 5-3094, 5-3101, 5-3105
12/3/12	Zoning - definitions; electronic gaming operations	9-3012, 9-3056.1, 9-3060, 9-3060.07
2/11/13	Sidewalk cafés	4-1051 through 4-1058
9/3/13	Zoning - regulation of land disturbing activities	9-33401 through 9-33405
9/3/13	Zoning - illicit discharges and connections and onsite wastewater	9-3501 through 9-3503
9/3/13	Zoning - Phase II stormwater	9-3301 through 9-3306.1
Res. of 3/3/14	Town manager residency requirement	2-2003

CONFIDENTIAL ATTORNEY WORK PRODUCT

6/30/14 Zoning - conditional use 9-3047, 9-3131 through 9-3134, 9-3137, deletes permit; Board of 9-3147 Adjustment

Date	Subject	Location
12/1/14	Zoning - definitions; use requirements by district	9-3012, 9-3054.1, 9-3055.1, 9-3056.1, 9-3058.1, 9-3060.08, 9-3060.09
6/29/15	Zoning - definitions; location of accessory buildings; use requirements by district	9-3012, 9-3039, 9-3052.1, 9-3053.1, 9-3060.10
8/3/15	Changing council meeting time	2-1011
9/8/15	Prohibiting the use of e-cigarettes and tobacco products on certain Town property	8-5006 through 8-5012
10/5/15	Zoning - sign regulations	9-3091, 9-3032, 9-3095, 9-3097.1, 9-3097.4, 9-3098, 9-3100, 9-3102, 9-3103.1, 9-3106
3/3/16	Zoning - definitions; use requirements by district	9-3012, 9-3055.1, 9-3056.1, 9-3058.1
4/4/16	Zoning - definitions; animal keeping	9-3012, 9-3061
6/27/16	Retiree insurance coverage	2-8.14
11/7/16	Zoning; planned unit developments	9-3111.1
11/7/16	Parking	7-1184, 7-1230, App. I, Sec. 103
12/5/16	Parking	7-1230
2/6/17	Subdivision regulations	9-2052.03, 9-2052.09, 9-2052.11
8/7/17	Sunday sales; alcohol	6-1031
9/5/17	Speed limits	App. I, Sec. 122
//	Zoning	9-2050.04, 9-2020, 9-3012, 9-3031, 9-3035, 9-3047, 9-3051 through 9-3053
5/7/18	Through streets	App. I, Sec. 108
6/4/18	Speed limits	App. I, Sec. 116
6/4/18	Animals	8-2001 through 8-2009, 8-2011 through 8-2014, 8-2021 through 8-2030, 8-2034,

CONFIDENTIAL ATTORNEY WORK PRODUCT

		8-2041 through 8-2045, 8-2051 through 8-2055
8/6/18	Speed limits	App. I, Sec. 116
Res. of 2/4/19	Smoking, e-cigarettes	8-5006, 8-5007
Res. of 5/6/19	Storage and removal of junk	8-6021
Res. of 5/6/19	Property nuisances	8-4001 through 8-4013
5/6/19	Special events	8-11001 through 8-11005
Res. of 5/6/19	Junked vehicles	8-3001 through 8-3017
Res. of 5/6/19	Zoning - minimum housing standards	9-1061 through 9-1113
Ord. of / /	Cross connection; backflow	5-1023
Res. of 9/3/19	Adequacy and location of shelter	8-2043
Res. of 2/3/20	Weapons - dangerous missiles	8-6029
Res. of 3/20	Unnecessary noises prohibited; enforcement and penalties	8-6001
Res. of 4/12/21	Rescinding (appointment of town clerk)	2-2010 repeals 2-2010

COUNCIL AGENDA MEMO

To: Town Clerk
From: Jack W. Moss/ Chief of Police
Date: 3/29/22
Agenda: 04/04/2022

REQUEST

Accept and approve funding to replace VIPER radios.

BACKGROUND

In 2010, the police department purchased VIPER radios to use on the State of North Carolina Viper radio system.

All law enforcement agencies in Burke County utilize the same VIPER system.

ANALYSIS

The current radios are not compatible with the new Viper system requirements and will not be able to program to meet this update.

The Kenwood radios we are recommending to purchase adhere to the new requirements.

RECOMMENDATION

Staff recommends approval of purchasing 16 handheld radios and 22 mobile radios at a total cost of \$83,177.04. This price includes taxes and installations in all vehicles.

BUDGET ANALYSIS:***Budgetary Action***

Is a Budget Amendment required?

Yes

☒

No

☐

PURCHASE OF VIPER HANDHELD AND MOBILE RADIOS.





KENWOOD VIKING VP-5000

- The police departments current Motorola handheld and mobile radios are 12 years old.
- These radios will not update to the State of North Carolina Viper upgrade mandate.
- The Kenwood VP-5000 is one of the approved state contract replacement viper radios.



THE VM-5000 IS THE REPLACEMENT PATROL
UNIT MOBILE APPROVED BY THE STATE.

- The current State contract pricing is valid until June 30 2022.
- Contract pricing are expected to exceed a 27% increase across the board.
- Purchasing now will save the town over \$31,387.00.

Memo

To: Jessica Lail, Town Clerk

From: David Andersen

cc: Town Council

Date: March 28, 2022

Re: Awarding Contract for Pool Boiler Replacement

The existing boiler for the pool has suffered a major failure in the heat exchanger. Given the age and condition of the boiler, parks and recreation staff recommends a replacement of the existing boiler.

Two companies have submitted bids for the removal of the old boiler and the installation of a natural gas boiler:

- Hickory Sheet Metal Co., Inc. of Hickory, NC – Not to exceed \$25,000
- Link Boiler and Mechanical of Hickory, NC -\$24,800

Upon review of the bids, staff determined the bid to not exceed \$25,000 from Hickory Sheet Metal to be the most comprehensive in scope of work and services.

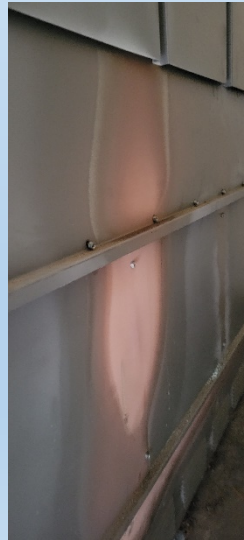
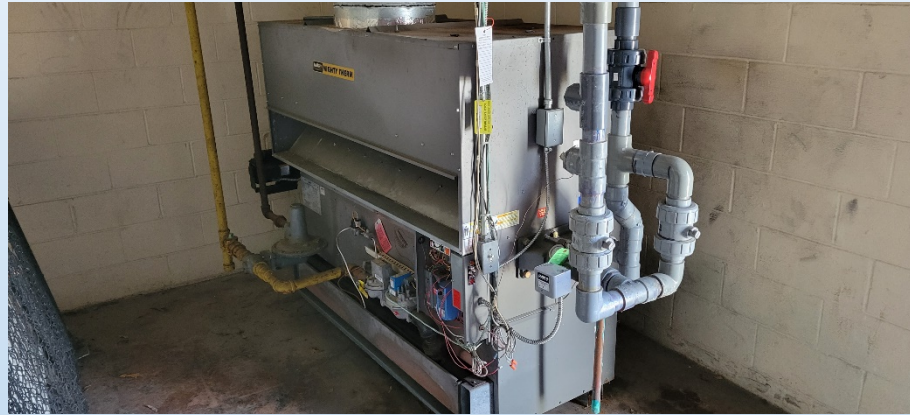
Attached is the proposal for completion of the boiler replacement by Hickory Sheet Metal Co., Inc. Staff recommends signing the proposal so as to ensure receipt, installation, and proper working order of the boiler prior to the Fall 2022 indoor pool season.

Town of Valdese Parks and Recreation

2022 Pool Boiler Project

Current Boiler: Installed 2016

- Exclusively heats pool water
- Located adjacent to pump room
- Estimated life span 6-8 years serving as commercial pool heater
- Crack in heat exchange leading to high carbon monoxide emissions



Recommendation

- Replace complete boiler instead of part replacement
- Replace with identical unit
- Cost: \$25,000
- Delivery/ Install: 14-16 weeks

Proposal

Hickory Sheet Metal Co., Inc.

P.O. Box 2049

Hickory, North Carolina 2860

Phone: 828-322-3720 North Carolina License #2878 P/H Class 1,2,3 Fax: 828-324-0455

Proposal Submitted To:	Date: 3/25/22
Name: Dave Anderson	Job Name: Valdese Parks & Recreation PO Box 339 312 Massel Ave. SW Valdese, NC 28690

We hereby submit specifications and estimates for: The installation of a replacement pool heater at your facility consisting of a LAARS Boiler that is a direct fit.

Proposal includes all equipment, removal of the existing unit, controls and other incidentals.

The equipment is guaranteed to be free of defects in materials and workmanship for a period of one year.

Hickory Sheet Metal Company will provide and install at a cost not to exceed: 25,000.00

Lead time 14 to 16 weeks...

We hereby propose to furnish labor and materials– complete in accordance with the above specifications for the sum of:

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control. Owner to carry fire, tornado, and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized Signature: Gary Tennant

Note: This proposal may be withdrawn by us if not accepted within thirty (30) days.

ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Accepted:

Date: _____

Signature: _____

Signature: _____

Valdese Town Council Meeting

Monday, April 4, 2022

Budget Amendment #

12

Subject:

Kenwood Radios for Viper System

Description:

Kenwood is extending a special limited time pricing for radios that will be compatible with updates to the Viper communications system. These radios cover Police mobile and portable needs as well as Fire mobiles. This does not include Fire portable needs as these are not eligible with the special pricing being offered. This special pricing will save the town \$31,387 compared to waiting until July.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3990.000	General Fund Balance Appropriated		77,918
Total		\$0	\$77,918

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.5100.740	Capital Outlay	77,918	
Total		\$77,918	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Valdese Town Council Meeting

Monday, April 4, 2022

Budget Amendment #

13

Subject:

Donation for Stage project

Description:

To accept a private donation to the stage project behind Old Rock School

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3350.000	Donations		2,500
Total		\$0	\$2,500

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.6250.740	Capital Outlay	2,500	
Total		\$2,500	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Valdese Town Council Meeting

Monday, April 4, 2022

Budget Amendment #

14

Subject:

Sewer Line Repair

Description:

This repair was identified as a priority need in the AIA Wastewater Grant study recently presented at the March meeting. This replaces 590 feet of failing sewer line and three manholes that are creating an environmental issue south of the railroad tracks.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account Description		Decrease/ Debit	Increase/ Credit
30.3990.000	Utility Fund Balance Appropriated		59,025
Total		\$0	\$59,025

Amounts appropriated for expenditure are hereby amended as follows:

Account Description		Increase/ Debit	Decrease/ Credit
30.8120.740	Capital Outlay	59,025	
Total		\$59,025	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Valdese Town Council Meeting

Monday, April 4, 2022

Budget Amendment #

15

Subject:

Paving Assesment Plan

Description:

This study of Town street conditions will provide the Town an updated list of priority streets.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3430.000	Powel Bill Allocations		14,300
Total		\$0	\$14,300

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.5700.450	Contracted Services	14,300	
Total		\$14,300	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

Valdese Town Council Meeting

Monday, April 4, 2022

Budget Amendment #

16

Subject:

Replace Boiler Unit for Pool

Description:

The installation of a replacement pool heater consisting of a LAARS Boiler that is a direct fit.
Proposal includes all equipment, removal of the existing unit, and controls.

Proposed Action:

BE IT ORDAINED by the Council of the Town of Valdese that, pursuant to Section 15 of Chapter 159 of the General Statutes of North Carolina, the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2022:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
10.3990.000	General Fund Balance Appropriated		25,000
Total		\$0	\$25,000

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.6200.740	Capital Outlay	25,000	
Total		\$25,000	\$0

Section II:

Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, to the Budget Officer and the Finance Officer for their direction.

TOWN OF VALDESE
VALDESE BLUFFS WATER LINE EXTENSION
CAPITAL PROJECT BUDGET ORDINANCE

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1. The project authorized is **Valdese Bluffs Water Line Extension**. Project proposes extension of an existing 12-inch water main in the project area for a length of approximately 725 LF with ductile iron pipe.
The ARP Project Grant for the Valdese Bluffs Water Line Extension component will be one hundred percent of eligible project costs up to a maximum of \$80,403.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the program ordinance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to contribute to this project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
ARP Grant	80,403	51.3000.002

	\$ 80,403	
	=====	

Section 4. The following amounts are appropriated for the project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Planning	\$ 6,015	51.8110.100
Design	6,200	51.8110.200
Construction	68,188	51.8110.800

	\$ 80,403	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The finance officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.

Section 8. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

Section 9: Copies of this project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 4th day of April, 2022.

Charles Watts., Mayor

Jessica Lail, Town Clerk

TOWN OF VALDESE
VALDESE BLUFFS SEWER LINE EXTENSION
CAPITAL PROJECT BUDGET ORDINANCE

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1. The project authorized is **Valdese Bluffs Sewer Line Extension**. Project proposes the extension of approximately 1,985 LF of 12-inch gravity sewer lines, aerial pier supports and associated manholes and new precast concrete manholes. Sanitary sewer pipe will be long-span ductile iron type where necessary for aerial spans and as required by depth. The ARP Project Grant for the Valdese Bluffs Sewer Line Extension component will be one hundred percent of eligible project costs up to a maximum of \$721,580.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the program ordinance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to contribute to this project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
ARP Grant	721,580	52.3000.002

	\$ 721,580	
	=====	

Section 4. The following amounts are appropriated for the project:

<u>Source</u>	<u>Amount</u>	<u>Assigned Account Number</u>
Planning	\$ 56,455	52.8110.100
Design	44,110	52.8110.200
Construction	621,015	52.8110.800

	\$ 721,580	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The finance officer is directed to report quarterly on the financial status of each

project element in Section 4 and on the total revenues received or claimed.

Section 8. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

Section 9: Copies of this project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 4th day of April, 2022.

Charles Watts., Mayor

Jessica Lail, Town Clerk