

**Town of Valdese
Town Council Meeting
Valdese Town Hall
102 Massel Avenue SW, Valdese
Monday, June 28, 2021
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 June 7, 2021

7. New Business

- A. Introduction of New Employees
- B. Code Enforcement Update
- C. FY 2021-2022 Budget Public Hearing & Ordinance Adoption
 1. Adoption of FY 2021-2022 Fee Schedules
 2. Adoption of FY 2021-2022 General Fund Capital Improvement Plan
 3. Adoption of FY 2021-2022 Utility Capital Improvements Plan
 4. Adoption of Budget Ordinance
- D. Family Friday Night Location
- E. Public Hearing for 160D Code Amendments
- F. American Rescue Plan Capital Reserve Ordinance Amendment
- G. Resolution Approving Acceptance of ARP Funds
- H. American Rescue Plan – Grant Project Ordinance
- I. Capital Project Ordinance Amendment

8. Manager's Report

- A. Next Regular Council meeting scheduled for Monday, August 2, 2021, 6 p.m.
- B. Independence Day Celebration, Friday, July 2, 2021, 7:00 p.m.
- C. Town Offices Closed on Monday, July 5, 2021, in Observance of Independence Day

9. Mayor and Council Comments

10. Closed Session Pursuant to NC General Statute 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee.

11. Adjournment

COMMUNICATION NOTES

To: Mayor Black
Town Council

From: Seth Eckard, Town Manager

Date: June 24, 2021

Subject: Monday, June 28, 2021 Council Meeting

6. Consent Agenda

A. Approval of Regular Meeting Minutes of June 7, 2021

7. New Business

A. Introduction of New Employees

Public Services Director Greg Padgett will introduce Public Works and Waste Water Plant employees. Parks & Recreation Director Doug Knight will introduce an employee.

B. Code Enforcement Update

WPCOG Code Enforcement Officer Todd Justice will be at the meeting to update code enforcement, specifically on 909 Main Street.

C. FY 2021-2022 Budget Public Hearing & Ordinance Adoption

1. Adoption of FY 2021-2022 Fee Schedules
2. Adoption of FY 2021-2022 General Fund Capital Improvement Plan
3. Adoption of FY 2021-2022 Utility Capital Improvements Plan
4. Adoption of Budget Ordinance

Enclosed in the agenda packet is the Fiscal Year 2021-2022 Budget Ordinance, proposed fee schedule, General Fund Capital Improvement Plan, and Fiscal Year 2021-2022 Utility Capital Improvements Plan. Mayor Black will open the public hearing, staff will present the FY 2021-2022 Budget, and Council will receive input from our citizens.

Requested Action: Following the public hearing, Council will need to adopt the budget ordinance as presented or amended by Council. This can be in the form of one vote.

Staff recommends that Council approve the FY 2021-2022 Fee Schedule; adopt the FY 2021-2022 General Fund Capital Improvement Plan; and adopt the FY 2021-2022 Utility Capital Improvements Plan, as presented.

D. Family Friday Night Location

Enclosed in the agenda packet is a memo from Community Affairs Director Morrissa Angi discussing the Family Friday Nights series location. Ms. Angi will present the pros and cons of

both locations and solutions to any issues with moving the location to the field permanently, or resuming at the former Wells Fargo parking lot.

Requested Action: Staff recommends approval of moving the Family Friday Night series to the field behind the Old Rock School for the remainder of the season.

E. Public Hearing for 160D Code Amendments

Enclosed in the agenda packet is a memo from Planning Director Larry Johnson. Also enclosed are the proposed amendments to the Fire Prevention ordinances, Minimum Housing standards, Zoning Subdivision, and an Ordinance to adopt the changes. The deletions (strike through) and the additions (underlining) are reflected in each. Mr. Johnson will present an overview.

Requested Action: Staff requests that Council adopt the Ordinance to amend various provisions of the Town of Valdese Fire Prevention, Minimum Housing Standards, and Zoning Ordinances to comply with Chapter 160D of the NC G.S.

F. American Rescue Plan (ARP) Capital Reserve Ordinance Amendment

Enclosed in the agenda packet is an American Rescue Plan Capital Reserve Ordinance Amendment. Due to updated guidance by the U.S. Department of Treasury and Local Government Commission, the ARP funding will need to be accounted for utilizing a different financing mechanism other than the Capital Reserve Fund to comply with the grant requirements.

Requested Action: Staff recommends that Council approve the ARP Capital Reserve Ordinance Amendment as presented.

G. Resolution Approving Acceptance of American Rescue Plan (ARP) Funding

Enclosed in the agenda packet is a Resolution accepting the funds of approximately \$1,290,000 to be distributed to the Town of Valdese. Half of the funding will be distributed in 2021 and the remainder in 2022. The use of the funds is outlined in the Interim Final Rule published by the U.S. Department of the Treasury.

Requested Action: Staff recommends the Council approve the Resolution for the ARP funding as presented.

H. American Rescue Plan (ARP) – Grant Project Ordinance

Enclosed in the agenda packet is a Grant Project Ordinance for the American Rescue Plan. The purpose of this reserve fund is to recognize and distribute funding from the American Rescue Plan according to the U.S. Department of Treasury guidelines on eligible items. The total estimated amount at this time for Valdese is \$1,290,000. The deadline for spending the money will be on December 31, 2024. Mr. Weichel will be at the meeting to present.

Requested Action: Staff recommends that Council approve the Capital Reserve Ordinance for the American Rescue Plan as presented.

I. Capital Project Ordinance Amendment

Enclosed in the agenda packet is a Capital Project Ordinance Amendment prepared by Finance Director Bo Weichel. This amendment will move funds to the appropriate account. Mr. Weichel will be at the meeting to present.

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

READING MATERIAL

VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT**MAY 1st-31st, 2021**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF MAY, 2021. 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	112 HOURS
VEHICLE DUTY	114 HOURS
EQUIPMENT DUTY	68 HOURS
EMERGENCY RESPONSES (ON DUTY)	66 HOURS
TRAINING (ON DUTY)	85 HOURS
FIRE ADMINISTRATION	213 HOURS
TRAINING ADMINISTRATION	8 HOURS
MEETINGS	9 HOURS
FIRE PREVENTION ADMINISTRATION	30 HOURS
FIRE PREVENTION INSPECTIONS	55 HOURS

<u>TYPE</u>	<u>NUMBER OF INSPECTIONS</u>	<u>VIOLATIONS</u>
ASSEMBLY	14	76
BUSINESS	6	25
DAYCARE	0	0
EDUCATIONAL	0	0
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	5	28
RESIDENTIAL	5	6
FOSTER HOMES	1	0
UTILITY/MISC	0	0
REINSPECTIONS	6	13
TOTAL:	37	148

PUBLIC RELATIONS	10 HOURS
HYDRANT MAINTENANCE	53 HOURS
SAFETY ADMINISTRATION	22 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS	7 HOURS
EXTRA DUTY FIRES	26 HOURS
NON-DEPARTMENTAL DUTIES	5 HOURS
EXTRA DUTY TRAINING	29 HOURS
EXTRA DUTY FIRE/MED STANDBY	2 HOURS
PHYSICAL TRAINING	19 HOURS
EXTRA DUTY MEDICAL RESPONSES	38 HOURS
VOLUNTEER FIREFIGHTER TRAINING	41 HOURS
TOTAL TRAINING MANHOURS:	155 HOURS

FIRE DEPARTMENT EMERGENCY RESPONSES:

<u>FIRE:</u>	<u>MONTHLY TOTAL</u>
FIRE ALARM	2
MUTUAL AID TO STATION 63	0
MUTUAL AID TO STATION 67	0
TREE DOWN	1
STRUCTURE FIRE	4
SMOKE/GAS ODOR	0
GAS LEAK	1
SERVICE CALL	2
VEHICLE FIRE	0
STANDBY	<u>1</u>
	11
<u>MEDICAL:</u>	
ABDOMINAL PAIN	0
ALLERGIC REACTION	0
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	0
BACK PAIN	0
CANCELLED ENROUTE	0
CARDIAC	1
CHEST PAIN	4
CHOKING	1
CODE BLUE	2
DIABETIC	1
DOA	0
FAINTING	0
FALL	5
HEADACHE	1
HEMORRHAGE	1
OTHER	0
OVERDOSE/INTOXICATED	4
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	9
SEIZURE	3
SICK	2
STABBING	0
STROKE	1
UNCONSCIOUS	3
UNKNOWN	<u>2</u>
	40
<u>FIRE AND MEDICAL:</u>	
MOTOR VEHICLE ACCIDENT	<u>0</u>
	0
<u>TOTAL RESPONSES:</u>	<u>51</u>

GREG STAFFORD, CHIEF
VALDESE FIRE DEPARTMENT

Town of Valdese Personnel Report

Employee NamePositionPrevious PositionDepartmentDate of Event***Promotions******New Hires***

Connor Taylor

Athletic Supervisor

Parks & Rec

6/9/2021

Transfers

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

June 23, 2021

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

The Police Department initiated “Boots of the Ground”, June 3, 2021. This program consist of a community based Officer contact initiative. I am pleased to give a follow up report on the progress of this program as follows:

<u>Location:</u>	<u>Officer Visits:</u>
McGalliard Falls	59 Visual Checks / Walk around
Old Rock School	52 Visuals Checks / Walk around
Children’s Park	48 Visual Checks / Walk around
Community Center	57 Visual Checks / Walk around
Lakeside Park	6 Community Contact
Main St Extra Patrol	Nightly Door Checks
Business Patrol	17 Community Contact
Family Friday Night	2 Community Contact
Myra’s Car show	Every Friday Night

Our Officers have logged 343 residential and business security checks and 370 extra patrols in just 20 days. These checks and extra patrols include all of the standard residential checks, business, and boots on the ground CAD logs.

Community Affairs & Tourism Monthly Stats

June 2021

Tourism Statistics

<i>townofvaldese.com Visits</i>	17,557
<i>downtownvaldese.com Visits</i>	532

Top Pages Viewed: 1)Aquatics & Fitness 2)Recreation3)Utilities 4)Community Affairs

Facebook

<i># of followers</i>	12,822
<i>Total # of engagement</i>	15,745
<i>Daily Total Reach</i>	129,493

Zoho Social Media Monthly Report: Postive vs. Negative Feedback

Postive 99.09%

Negative .91%

Zoho Page Reach by City: Morganton 21.7K, Hickory 13.4K, Valdese 11.7K , Lenoir 8.7K, Drexel 4.7K

<i>Approximate # of Visitors to the Tourism/CA Office</i>	71
---	----

Community Affairs Stats

<i>Old Rock School Rental Breakdown</i>	
AUDITORIUM	1
TEACHER'S COTTAGE	3
WALDENSIAN ROOM	4
CLASSROOMS	0
MAJOR EVENT (ENTIRE SCHOOL)	1
<i>Major Events Held at the Old Rock School</i>	<i>Number of Attendees</i>
Main Street Dance Recital	190
Main Street Dance Rehearsal	60
<i>Monthly Old Rock School Rentals</i>	9
<i>Old Rock School Total Attendance (approximate)</i>	1,300

CA Summary for June 2021

With Summer in full swing, the Community Affairs department has been exceptionally busy preparing for all the exciting events Valdese has to offer this time of year. Family Friday Nights continue to be an immense success at the new temporary location, with record attendance numbers and positive community feedback. Discussion on whether to permanently move this event to the Old Rock School field began, with distribution of surveys to attendees and local merchants. All considerations, pros/cons, and potential solutions were summarized in a presentation for council. The department also worked to make improvements to the field location, such as adding additional lighting to the field and providing more games for the "kid zone". Preparation is also underway for major town events such as Independence Day and the Waldensian Festival, such as securing vendors, promotions, and gaining sponsorships. The department's first "Rad Dad" Father's Day Photo Contest was a success, with two lucky fathers taking home gifts donated by our generous local businesses. The department also planned for another kid's scavenger hunt "Search for Stars & Stripes", where over 400 flags are to be hidden along Main St. Children can bring their flag to the Old Rock School office to receive a patriotic prize. These scavenger hunts have received extremely positive feedback from families, as well as our local merchants in the past. Finally, the department kicked off the first Employee Wellness gathering post COVID, with the Ice Cream Social at McGalliard Falls Park in which employees were entered into multiple drawings for turning in certain wellness criteria.

**TOWN OF VALDESE
TOWN COUNCIL REGULAR MEETING
JUNE 7, 2021**

The Town of Valdese Town Council met on Monday, June 7, 2021, 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 John F. "Chip" Black, Jr., Councilman Keith Ogle, Councilwoman Frances Hildebran, Councilwoman Susan Stevenson, Councilman J. Andrew Thompson, and Councilman Roy F. Sweezy. Also present were: Town Attorney Marc Mitchell, Town Manager Seth Eckard, Town Clerk Jessica Lail, and various department heads.

Absent: None

A quorum was present.

Mayor Black 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:

GARDIOL – RANDY RUTENBECK, 805 GARDIOL AVE NE, VALDESE: Mr. Rutenbeck expressed his concern with the number of cars speeding on Gardiol Ave. Mr. Rutenbeck would like to ride his bicycle with his grandchildren but said he would never be able to with the traffic. He feels that an effort needs to be made to make it safer.

CONSENT AGENDA: (enacted by one motion)

APPROVED REGULAR MEETING MINUTES OF MAY 3, 2021

APPROVED BUDGET WORKSHOP MINUTES OF MAY 24, 2021

APPROVAL OF LEASE AGREEMENTS AT THE OLD ROCK SCHOOL WITH DREAM CONNECTIONS AND STILL WATERS COUNSELING, INC. Lease agreements for rental space at the Old Rock School. The Dream Connections Lease in the amount of \$1,045 per month and the Still Waters Counseling Lease in the amount of \$305 per month.

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

End Consent Agenda

ITEMS REMOVED FROM CONSENT AGENDA: Item C removed by Councilwoman Hildebran.

APPROVED VEDIC BOARD OF DIRECTORS APPOINTMENTS The VEDIC Board of Directors recommended the re-appointment of Councilman Keith Ogle and the appointment of Kylie Gera to the VEDIC Board. The three-year terms will expire on July 1, 2024. Councilwoman Hildebran asked that in the future, a biography be presented when recommending a new appointee.

Councilwoman Hildebran made a motion to approve the recommended appointments to the VEDIC Board, seconded by Councilwoman Stevenson. The vote was unanimous.

PRESENTATION OF LIFESAVER AWARDS Fire Chief Greg Stafford shared a story from three years ago where an employee at Food Lion in Valdese, suffered a cardiac arrest while at work and survived the event. The patient's son, who works for the Town of Valdese was on that call. Chief Stafford shared that this type of call outside of a medical facility, the patient has a 9% chance of survival. Chief Stafford shared that this past Christmas Eve 2020, the same Food Lion employee suffered another cardiac arrest event in the parking lot. After the lifesaving crew revived him that included his son again, he was transported and

survived a second time. Chief Stafford introduced Major Nikki Hudson, who helped present the awards. Major Hudson expressed her gratefulness for the Valdese Fire Department. Major Hudson presented the lifesaver awards to the following percipients: Present - Matthew Chapman, James Deal(EMS), Aubrey Hendricks, Assistant Chief Truman Walton, Charlie Watts. Not present – Steve Kiddy, Tom Oxentine, Abby Hendricks, Tyler Keller(EMS), Lieutenant Mike Brown.

INTRODUCTION OF NEW EMPLOYEES Fire Chief Greg Stafford introduced Fire Engineer John Burnett. Police Chief Jack Moss introduced Police Officers Matthew Smith and Gregg Woody. Parks & Rec Director Doug Knight introduced Maintenance Worker Brett Crump.

PRESENTATION OF FY 2021-2022 PROPOSED BUDGET AND SCHEDULING OF PUBLIC HEARING FOR MONDAY, JUNE 28, 2021 The proposed budget was submitted to the Valdese Town Council on Thursday, May 27, 2021.

Town Manager Seth Eckard said, “In accordance with the North Carolina Local Government Fiscal Control Act, the recommended budget for fiscal year 2021-2022 is presented for your consideration. The budget document represents balanced revenues and expenditures. Continuing to reinvest in our Town in ways that support our vision and implement our Masterplans for the betterment of Valdese requires leadership. Each Town department contributes to the whole and is vital to the team. The capital budgets include equipment replacements, facility improvements, and substantial utility system investments.

The proposed combined fiscal year 2021-2022 operating and capital budget is \$12,030,352. This includes a total General Fund budget of \$6,713,722 and a total Utility Fund budget of \$5,316,630. The proposed budget maintains a property tax rate of 54.5 cents per \$100 valuation.

North Carolina Local Government Pension System

The Board of Trustees of the Local Government Employees’ Retirement System (LGERS) voted to approve its planned 1.18 percent increase to the system’s employer contribution rate for fiscal year 2021-22 – keeping with their January 2019 decision to amend the Employer Contribution Rate Stabilization Policy (ECRSP) to keep the system well-funded.

It is important to remember these rates are not a pay increase to employees; it is a mandatory expenditure imposed by the State.

General Fund

In accordance with the Local Government Budget & Fiscal Control Act (G.S. chapter 159), the budget ordinance includes both capital and operating expenditures as opposed to amending the budget ordinance throughout the year for each approved capital item. This shift in the way we budget accounts for the increase of size for the general fund budget from prior years.

The proposed budget includes a two percent cost of living adjustment increase for full-time employees. Republic Services contractually increases their solid-waste and recycling contract with the Town each year based on the annual consumer price index. This increase translates into a \$17,000 increase to our Republic Services contract. The proposed budget includes a seven percent increase for health insurance premiums.

The Town’s finance department has done an outstanding job over the past few years collecting back taxes and increasing our annual tax collection rate from 95 percent to 98 percent. We anticipate an increase in residential real property tax value; however, we also expect a decrease in industry’s personal property value. The reduction of the value of the industry’s personal property is due to the depreciation schedule of Meridian’s manufacturing equipment in their new facility. The net result is a projected \$22,000 decrease in the Town’s property tax revenue.

The percentage of the General Fund’s annual operating budget used to service existing debt is 4.33 percent.

ABC Distributions

Fiscal Year 2021 – 2022 will mark the final debt payment to the Town of Valdese from the Valdese ABC Store. We project that the ABC Store will distribute \$100, 0000 to the Town of Valdese in 2021 - 2022. ABC funds will be placed in the Town's public safety building capital reserve account.

Burke County Library

The proposed budget includes a \$40,000 donation to the Burke County Library.

Public Safety Building

The Town secured the services of CBSA Architects out of Hickory to design our new public safety building that is to be constructed at the old Pineburr Alba Mill site. We anticipate going out for bid in early 2022.

General Fund Capital Projects:

The General Fund Budget reflects expenditures of \$635,200 in capital projects across multiple departments. Highlights include:

Fire Department

- Hydraulic rescue spreader
- Hydraulic rescue cutter
- Thermal imaging camera
- Hydraulic rescue ram

Community Affairs

- Replace stage lighting system in the Old Rock School

Police Department

- Patrol Vehicle and equipment

Public Works

- Resurface public works parking lot
- Replace leaf collection truck
- Replace dump truck

Parks and Recreation

- Tennis court resurfacing
- Replace pool pumps
- Replace pool variable frequency drives
- Gym floor replacement

Administration

- Planning department computer

Utility Fund

The Utility Fund budget for Fiscal Year 2021-2022 is \$5,316,630.

In the Fiscal Year 2015-2016 budget, the Town conducted a comprehensive capital improvement plan for the utility system. The study revealed that the Town has pressing needs, which should be addressed to ensure high-quality water and wastewater treatment for our capital needs. This budget proposes a three percent increase in residential utility rates to cover our aging infrastructure needs.

Utility Fund Capital Projects:Water Plant

- Roof replacement on the main building
- Flowmeter for #2 and #3 FWP
- SCADA upgrades
- Basin structural assessments
- #3 Finished Water Motor Replacement
- Tank Maintenance

Waste Water Plant

- Maintenance vehicle replacement
- Seal replacement for influent pumps 1 & 2
- Seal replacement for secondary waste pumps
- Spare pump (Morgan Trace)
- Spare pump (High Meadows)
- Primary clarifier #2 drive & bridge replacement
- Replace valve to the aeration basin
- Concrete work at compost pad
- Replacement #3 or #4 influent valves
- Replace chlorine meter

Water Distribution and Wastewater Collection System

- Replace service truck
- Various waterline upgrades

At this time I will take any questions that Council may have.”

Councilman Ogle made a motion to set the public hearing for the FY 2021-2022 budget on Monday, June 28, 2021, at 6:00 p.m., Valdese Town Hall, seconded by Councilwoman Hildebran. The vote was unanimous.

INDUSTRIAL ARTS BUILDING DISCUSSION Public Services Director Greg Padgett presented two quotes for the demolition of the IA Building, located on the West end of the Old Rock School football field. Mr. Padgett gave a brief overview of the previous discussions with Council on the IA building options. Mr. Padgett reminded Council that to remodel the downstairs the price would be approximately \$250,000.00 with a blank slate upstairs. Mr. Padgett reached out to five companies to get quotes for the demolition, and only two companies submitted quotes. The lowest bidder was DH Griffin Wrecking Co., Inc., in the amount of \$134,050. (Other bid: NEO Corporation - \$201,900) After the demolition is complete, there would be a grassy slope from the top of the field to the parking lot. The concrete stairs on either side would remain. Councilwoman Stevenson reminded everyone that this has been discussed many times and that this is not something that just came up. Town Manager Seth Eckard said that this project would be completed before school starts back. Mr. Padgett explained that the money would come from proceeds generated from the sale of the Crowhill Park and the Triple Community properties.

Councilman Ogle made a motion to demolish the IA building and award the bid to DH Griffin Wrecking Co., Inc., seconded by Councilman Thompson. All Council members voted aye except for Councilman Sweezy, who opposed.

PUBLIC HEARING FOR CONDITIONAL USE PERMIT APPLICATION #1-4-21 Mayor Black introduced the Conditional Use Hearing and reminded Council that they would sit as a Quasi-Judicial board, verbatim minutes will be prepared, and anyone that wishes to speak will need to be sworn in. The applicant must

present competent, sufficient evidence and the application must meet the standards of our Ordinance. Mayor Black reminded Council that if they determine that the applicant has submitted substantial evidence and the standards are met, the permit must be issued. If there is opposition, the person speaking must present competent material evidence that the standards have not been met, keeping in mind that opinions are not evidence. The decision made should be based on factual evidence. Mayor Black asked if anyone wished to speak either for or against to come forward and be sworn in by Town Clerk Jessica Lail. Ms. Lail administered oaths.

Mayor Black declared the public hearing open at 6:42 p.m.

Planning Director Larry Johnson briefly reviewed highlights of the following report:

Conditional Use Permit #1-4-21 in M-1 Manufacturing District

APPLICANT:

Carolina Residential Services, Inc.

PROPERTY OWNER:

Marjorie V. Rist and Jules C. Rist

REQUEST:

On April 7, 2021, the applicant requested a Conditional Use Permit to allow a Psychosocial Rehabilitation (PSR) Service to operate in the M-1 Manufacturing Zoning District. The applicant currently has an option to purchase if CUP is approved.

Background: Psychosocial Rehabilitation (PSR) service is designed to help adults with psychiatric disabilities to increase to their functioning so that they can be successful and satisfied in the environments of their choice with the least amount of ongoing professional intervention. According to the applicant, PSR focuses on skill and resource development related to life in the community and increasing the participant's ability to live as independently as possible, manage their illness and their lives with as little professional intervention as possible, and participate in community opportunities related to functional, social, educational and vocational goals.

The facility normally operates Monday-Friday between the hours of 8 am - 4 pm. Clients are supervised at all times at a 1:8 staff to client ratio. There are 30-35 clients on the roster at the current location; however, normally there will be 30 in attendance at any given time. Currently, Carolina Residential Services employs a staff of four (4).

Plans were to possibly utilize the house as a transitional residence for clients in need of a place to reside on a short-term basis. **Since the submittal of this application, Residential Care Services has withdrawn the proposed use of the house as transitional housing.**

LOCATION:

The parcel address is 813, 815 and 817 Kathy Drive NE, Valdese. The parcel is currently owned by Marjorie V. and Jules C. Rist.

LAND USE AND ZONING:

Consisting of 1.42 acres, the property contains three buildings, two of which are vacant and were used in a hosiery mill operation and one of which is a house. There is one tenant who occupies the residential structure on the property.

The parcel is zoned M-1 Manufacturing. The M-1 manufacturing District is intended to establish and preserve the area for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of commercial uses that are most appropriately located as neighbors of industrial uses or that are necessary to service the immediate needs of people in these areas.

SURROUNDING ZONING:

North: M-1 Manufacturing
 South: R-2 Residential (Burke County/Rutherford College)
 East: R-15 Residential (Rutherford College)
 West: R-8 Residential

SURROUNDING LAND USES:

Adjacent properties are developed and are a mixture of site-built and manufactured homes located in WS-IV Critical Area.

TRANSPORTATION:

Egress and Ingress to the property is by way of Kathy Drive NE connecting to Lovelady Road Roundabout and Kathy Drive Extension NE. Kathy Drive is identified as a local residential street. Due to the nature of existing development and the number of structures, a traffic count was not conducted.

UTILITIES:

The Town of Valdese has the capacity and will provide water and sewer services. This area is being served with a 6-inch water line and an 8-inch sewer line. Additionally, Valdese Public Works Department will not be responsible for any garbage pick-up because of the nonresidential use of the property.

LAND USE PLAN:

The Valdese Vision – A Land Use Action Plan for the Future identifies the future use of this property as Industrial.

CONDITIONAL USE REQUEST HISTORY:

There is no conditional use history on the parcels.

APPLICABLE CODE SECTIONS:

Section 9-3058 Manufacturing Zoning District (M-1)

- 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...

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 Center
- (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 slaughterhouses; 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 materials such as uncured hides, explosives, and nuclear waste products
- (18) Large Breweries
- (19) Winery

Psychosocial Rehabilitation Service (PSR) is not listed as a use permitted by right. However, uses permitted with a Conditional Use Permit include:

- (1) Agriculture Uses
- (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 of Valdese*
- (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

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:

<u>Use Classification</u>	<u>Parking Space Requirement</u>
Residential	2 spaces for each dwelling unit
Commercial	1 space for every 500 square feet of gross floor area
Industrial	1 space for every 500 square feet of gross floor area
Office	1 space for every 500 square feet of gross floor area
Warehouse	1 space for every 4,000 square feet of gross floor area

The building to be used for the (PSR) contains approximately 5,000 square feet of gross floor area. A minimum of 10 parking spaces shall be provided. **The applicant shall comply.**

Section 9-3076 Parking Lot Design Requirements

Off-street parking areas should be designed to create a safe and comfortable passage for pedestrians. All off-street parking lots, including exits, entrances, drives, and parking areas shall:

- (1) Be designed to allow for traffic movement in accordance with generally accepted geometric design principles
- (2) Have physical access to a public street
- (3) 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, a 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.
- (4) **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
- (5) **Be maintained as long as the use, which it serves exists. Each parking space shall be marked and maintained.**
- (6) Unless otherwise required by these regulations, all off-street parking with more than 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.
Applicant Shall Comply.

Section 9-3147 Conditional Uses

The Valdese Town Council shall grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by this Valdese Zoning Ordinance and set forth as Conditional Uses under various use districts.

If the Town Council finds that in the particular case in question, the use for which the Conditional Use Permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood, Town Council may grant such a permit and may designate such conditions in connection therewith as will, in its opinion, assure that the proposed use will conform to the requirements and spirit of this Ordinance.

If at any time after a conditional use permit has been issued the Town Council finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a conditional use permit, the permit shall be terminated, and the operation of such use discontinued. If a conditional use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

POSSIBLE FINDINGS AS RELATED TO THE GENERAL STANDARDS FOUND IN SECTION 9-3147

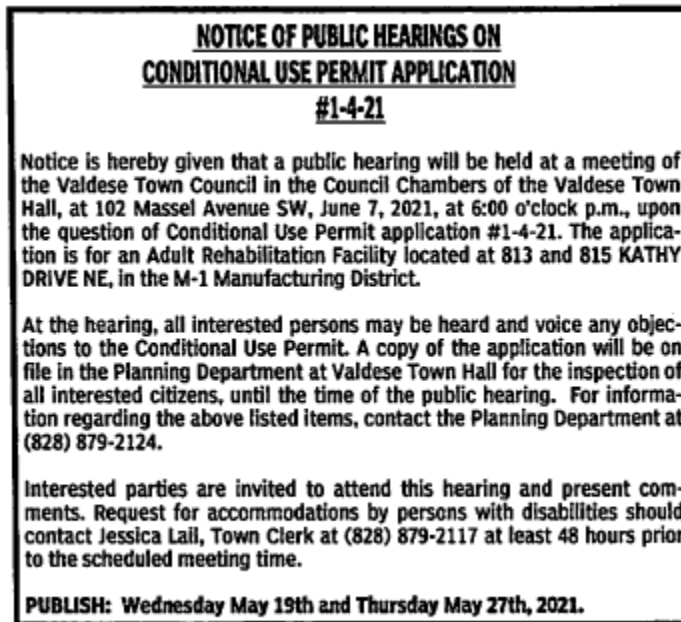
- 1) The use will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use.
 - The applicant will be operating as an adult rehabilitation service as allowed as a conditional use under the M-1 Manufacturing District. The service includes teaching clients with mental illness elements of independent living. Typical hours of operation will be Monday-Friday 8 am-4 pm. Staffing will always be on-site when there are clients present. The proposed facility will be operating as a service to a specific population and will operate as not to disturb properties in the surrounding area.
 - PSR's require certification to operate from the Division of Health Services Regulation (facility license).
 - All services will be conducted indoors, except for scheduled field trips.
- 2) The use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.
 - The proposed development will renovate and improve a current under-utilized and mostly vacant property.
- 3) The use, which is listed as a conditional use in the district in which it is proposed to be located, will need to comply with all required zoning standards.
 - The applicant is operating a **Service** as defined in the zoning ordinance with relevant conditions applied to ensure the overall use does not have negative impacts on the surrounding properties and community.

REVIEW/DISCUSSION:

The Valdese Town Council is required to make findings based upon substantial evidence presented at the hearing. The Town Council may refer to staff's report to aid in its deliberations. It is the responsibility of the applicant to present such evidence in the form of testimony, exhibits, documents, models, plans, and the like that applicant desires to present in support of the application for a conditional use permit.

1. On April 7, 2021, Carolina Residential Services, Inc. submitted an application for a Condition Use Permit for Psychosocial Rehabilitation Services in the M-1 manufacturing District.
2. The subject property is a 1.42-acre tract of land located along Kathy Drive NE, further identified as parcel identification number 2744517324.
3. The Valdese Town Council has heard sworn testimony by the applicant, staff and other interested persons.
4. The proposed use is not listed in the Uses Permitted by Right; however, a Conditional Use Permit may be granted for any lawful "service" not specifically referred to in the M-1 use section, provided the use is not dangerous or detrimental to the health, safety, welfare, or general character of the M-1 Zoning District or the Town of Valdese.
5. Parking spaces must be provided and paved. The number of spaces is based upon the gross floor area of the building(s) used. The current projection is that a minimum of 10 spaces shall be provided.
6. A traffic count was not conducted.
7. The applicant must meet or agree to meet the specific standards.
8. The Valdese Planning Board is recommending approval with the following condition:

- a. Planning Board approved transitional housing contingent upon staff being present at all times during all operations. Since the Planning Board meeting, Carolina Residential Services has removed the transitional housing component of the PSR service from its application. Therefore, the Planning Board's condition of approval for transitional housing no longer applies.
9. Adjacent property owners were notified by mail and the property was posted along Kathy Drive NE and Kathy Drive Extension NE. (Note: a first-class letter was sent to all adjoining property owners identifying the date of the public hearing. This mailing was certified by the Valdese Town Clerk.
10. Notice of public hearing by Town Council duly advertised.



11. If Town Council determines that the request meets the general standards for a Conditional Use Permit under Section 9-3147.4, the request should be approved.

Possible Conditions to Consider

1. Standard hours of operation shall not extend beyond Monday through Friday 8 am - 4 pm.
2. Staff shall be present at all times during hours of operation.
3. The applicant shall provide appropriate security protocols and notify the Valdese Police Department of security issues and suspicions of any threats to clients, staff, or the community.
4. Valdese Public Works Department shall not be responsible for any garbage pick-up.
5. The applicant shall comply with all parking requirements including the requirements outlined in Section 9-3074 and the requirements outlined in Section 9-3076.
6. All services will be conducted indoors, except for scheduled field trips

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed the Conditional Use Permit Application on Monday, May 17, 2021, and recommended approval of the application with a condition for transitional residential housing. Planning Board approved transitional housing contingent upon staff being present at all times during all operations. Since the Planning Board meeting, Carolina Residential Services has removed the transitional housing component of the PSR service from its application. Therefore, the Planning Board's condition of approval for transitional housing no longer applies.

Mayor Black asked if there were additional comments from the applicant or if anyone wished to speak either for or against the conditional use hearing.

SUSAN KINCAID: "I am Susan Kincaid, owner of Carolina Residential services, and I have Shane Ferguson, which is our director, and Ryan Whittington, which is a manager of our PSR that's currently in Caldwell County. Shane's going to present a little bit more about the program and what we do. I know Mr. Ogle is familiar with it because he worked with it when he was at Foothills. It is normally open 8:00 a.m. – 4:00 p.m., but sometimes staff would be there past 4:00 p.m., just working on notes and planning of events. The other thing I want to clarify is when you say all activities are normally indoor, they may be having a smoke break or something that would be outdoors in a covered area. So I did want to clarify that from what's been presented, but I'll let Mr. Ferguson and Mr. Whittington answer any questions or concerns that you may have."

SHANE FERGUSON: "Mayor and Council, thank you for your time. I do have some pictures of the current PSRs just to give you a general idea of what they look like and the proposal for the property on Kathy Drive. I am Shane Ferguson and have been blessed to be in this field of work for almost 30 years. I have served this population for a long time. I think a lot of times when you hear acronyms from the state and things like that, it's a little hard to understand. We serve individuals that have emotional, intellectual, and physical disabilities. Some individuals have had jobs. At Carolina Residential, we have residential group homes. We also PSR day programs which is what we are looking at today. Individuals will come in and work on education, computer literacy, money management; they certainly work on socialization with peers and with one another. They work at transitional employment. We try to impress on the participants to understand the importance of giving back to the community. So we had volunteer opportunities pre-COVID at the soup kitchen and volunteer at the humane societies. We have continued to do Meals on Wheels and have been blessed to be able to continue that through COVID. This was a non-contact delivery which some of the guys did not like because most guys are very friendly; they love talking to people. It is important to give them opportunities - one of the things that Mr. Johnson said about security. We ensure security for all folks as we have security systems that we turn on at night and we keep the doors locked. We always have staff present the entire time. We are regulated by the DHHR, and we cannot leave anyone unsupervised. We also have a manager on staff as well as a clinical professional. We do try to have a relationship with our local law enforcement officers. We have been fortunate not to have to call law enforcement. We do extensive screening on applicants before we take them. Our staff is well trained. They are trained in de-escalation training, CPR first aid; we have to do supervision contracts with a clinical professional. We do a background check on staff and one with DHHR to make sure they have not been charged in abuse. We are monitored by the state."

MAYOR BLACK: "I think what our Council is looking for here is also the information about what's going to be done with respect to the paving and parking spaces. Also, where's the money coming from for the updating of the buildings, and how are you going to meet the requirements that are set in our ordinance."

SUSAN KINCAID: "Carolina Residential Services has the funds set aside to renovate the building, and our contractor is actually the one that sent me the proposed building structure. There won't be as much renovations on the inside as the outside. Hopefully, it will look a lot better than the building does currently. We did meet with Asphalt Roads, and they have given a proposal on what it would be to pave. They will also do some of the demolition of the loading dock. We were waiting for tonight's vote before we proceed. He is also going to do some grading and water management-type things. I wanted to point out one thing Mr. Johnson said about the transportation of vehicles."

We do have four agency vans that are used for that facility to transport. There are four staff currently for that location, and the transportation will be used for individuals that may be at their private homes. We currently have about 25 to 30 clients. The program that we are relocating from Morganton, has been doing virtual services. The one in Lenoir has been operational since June 2020. We anticipate that most of the clients will come back, but because of a change in location, we may lose some but pick up a few more in the new location. We're moving our location, the current location is a leased facility, and it is also up for sale. Honestly, there's not a lot of buildings out there that's available, and this manufacturing application gives us the best location. We have never had anything violent going on or people making threats. In the event our staff did have something like that, we would seek out assistance from our local police department. Some clients come from group homes, and some come from private homes that can drive to the facility."

Mayor Black asked if there were additional comments or if anyone wished to speak either for or against the conditional use hearing with factual information to please come forward.

LORI HARPER – 816 KATHY DRIVE NE, CONNELLY SPRINGS: “What I like to say is, I have been to the Burke County Tax office in the last couple of weeks because all my taxes will be changed because they say I moved from Valdese to Connelly Springs, and I didn't. I just changed my driver's license. I moved, and I'm a neighbor there and run a business at the Burke Jules, and his business is down in there. Is something going to be done about the road coming down? We're going to have more traffic coming in there, and the pavement and everything on that road is really torn up, and every time I come to the Town about it, you know, we're on the outskirts.”

Mayor Black asked Ms. Harper if she had any factual evidence to present for this case.

Ms. Harper continues, “I'm just saying, all the neighbors just felt that they hadn't gotten all the information. And so I told them I would come and address the issues that they are feeling, they are uncomfortable, as far as something moving into our neighborhood. We feel like we're the Rutherford College/Valdese line where we don't know who to call. Half the time, you have to call the County, or you call Valdese.

Mayor Black stated we needed factual issues that are relevant to this hearing and asked if anyone else wished to speak.

MATTHEW POARCH – KATHY DRIVE EXT NE, CONNELLY SPRINGS: “As far as factual, I know what I see. At the office of the Unemployment Security Commission in Morganton, they walk the streets back and forth. I can't see how anyone could see this being at a school zone. That is beside me. You can get factual records at the Morganton Police Station.”

Mayor Black asked if there was anyone else that had factual evidence that is relevant to this public hearing. There being no one wishing to speak, Mayor Black closed the public hearing at 7:20 p.m.

Councilman Ogle made a motion to approve the Conditional Use Permit with the proposed conditions that staff proposed and that both conditions had been met, seconded by Councilman Thompson. All Council members voted aye except for Councilwoman Stevenson, who opposed.

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

Mr. Eckard shared that there was a story on the new housing project in Town in the News-Herald with a completion date of 2024 that includes a 60-unit apartment complex in the old Houston Hosiery Building on Main Street. Mr. Eckard stated that it would be a 12.3 million dollar investment.

MAYOR AND COUNCIL COMMENTS:

Councilman Ogle feels that the Family Friday Nights is working out well on the Old Rock School football field. The only issue Mr. Ogle could see would be the sound interfering with the Old Colony Players. Town Manager Seth Eckard shared that it would be on the June 28th Council agenda for more discussion. Councilwoman Hildebran has received positive comments on the location.

ADJOURNMENT: At 7:24 p.m., there being no further business to come before Council, Councilman Ogle made a motion to adjourn, seconded by Councilwoman Hildebran. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, June 28, 2021, 6:00 p.m., Valdese Town Hall.

Town Clerk

Mayor

jl

**TOWN OF VALDESE BUDGET ORDINANCE
FISCAL YEAR 2021-2022**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VALDESE, NORTH CAROLINA, THAT:

Section 1: The following amounts are hereby appropriated to the fund set forth for the operation of the town government and its activities for the fiscal year beginning July 1, 2021, and ending June 30, 2022, in accordance with the chart of accounts heretofore established for this town:

GENERAL FUND - OPERATIONS		\$	6,078,522
---------------------------	--	----	-----------

Governing Body	\$	70,846	
Administration		1,043,162	
Public Works		237,388	
Maintenance & Grounds		234,828	
Planning		65,673	
Police		1,123,965	
Fire		934,819	
Street		412,189	
Powell Bill		144,500	
Sanitation		321,720	
Recreation		929,973	
Tourism/Community Affairs		559,459	

GENERAL FUND - CAPITAL OUTLAY		\$	635,200
-------------------------------	--	----	---------

Governing Body	\$	-	
Administration		10,000	
Public Works		50,000	
Maintenance & Grounds		-	
Planning		2,000	
Police		45,000	
Fire		32,200	
Street		277,000	
Powell Bill		-	
Sanitation		-	
Recreation		138,000	
Tourism/Community Affairs		81,000	

WATER SEWER FUND - OPERATIONS		\$	4,795,330
-------------------------------	--	----	-----------

Water	\$	1,871,061	
Wastewater		1,689,112	
Water & Sewer Construction		1,235,157	

WATER SEWER FUND - CAPITAL OUTLAY		\$	521,300
-----------------------------------	--	----	---------

Water	\$	165,000	
Wastewater		274,300	
Water & Sewer Construction		82,000	

TOTAL BUDGET		\$	12,030,352
---------------------	--	-----------	-------------------

**TOWN OF VALDESE BUDGET ORDINANCE
FISCAL YEAR 2021-2022**

Section 2: It is estimated, and therefore appropriated, that the following revenues will be made available to the respective funds for the fiscal year beginning July 1, 2021 as follows:

GENERAL FUND	\$	6,713,722
UTILITY FUND		5,316,630
TOTAL REVENUES	\$	12,030,352

Section 3: There is hereby levied an ad valorem tax at the rate of fifty-four and one half cents (\$0.545) per one hundred dollars (\$100) valuation of property as listed for taxes as of January 1, 2021, for the purpose of raising a portion of the revenue listed in the General Fund appropriation in Section II of this ordinance. This rate, based upon an estimated total valuation of \$383,312,295 will generate a levy of \$2,040,795 with an estimated collection rate of 97.69%.

Section 4: As set forth in the Utility Fund Debt Service Section of the FY 2021-2022 budget document, the amount of \$352,251 is appropriated for the purpose of debt service and that this amount is sufficient for the complete and proper payment of all bond principal, bond interest and commissions on the outstanding debt of the town relating thereto for the fiscal year beginning July 1, 2021, and ending June 30, 2022.

Section 5: As set forth in the General Fund Debt Service Section of the FY 2021-2022 budget document, the amount of \$260,244 is appropriated for the purpose of debt service and that this amount is sufficient for the complete and proper payment of all bond principal, bond interest and commissions on the outstanding debt of the town relating thereto for the fiscal year beginning July 1, 2021, and ending June 30, 2022.

Section 6: The operating funds encumbered on the financial records of June 30, 2021 are hereby reappropriated into this budget.

Section 7: The corresponding "Fiscal Year 2021-2022 Rate and Fee Schedule" is approved with the adoption of this Annual Budget Ordinance.

Section 8: The Budget Officer is hereby authorized to transfer appropriations within a fund as contained herein under the following conditions:

- a. He may transfer amounts between line-item expenditures within a department without limitation and without a report being required.
- b. He may transfer amounts of \$10,000 between departments of the same fund with an official report on such transfer at the next regular meeting of the Town Council.
- c. He may not transfer any amounts between funds or from any contingency appropriation within any fund without approval of the Town Council.

Section 9: The Budget Officer is hereby authorized to execute agreements, within funds included in the Budget Ordinance or other actions by the Governing Body, for the following purposes:

- a. Form grant agreements to public and non-profit organizations
- b. Leases of routine business equipment
- c. Consultant, professional, or maintenance service agreements
- d. Purchase of supplies, materials, or equipment where formal bids are not required by law
- e. Applications for and agreements for acceptance of grant funds from federal, state, public, and non-profit organizations, and other funds from other governmental units, for services to be rendered which have been previously approved by the Governing Body
- f. Construction or repair projects
- g. Liability, health, life, disability, casualty, property, or other insurance or performance bonds
- h. Other administrative contracts which include agreements adopted in accordance with the directives of the Governing Body.

**TOWN OF VALDESE BUDGET ORDINANCE
FISCAL YEAR 2021-2022**

Section 10: Copies of this budget ordinance and accompanying documents shall be furnished to the finance office, budget officer, and other department heads of the Town of Valdese to be kept on file by them for their direction in the disbursement of funds.

Upon introduction by Town Manager Seth B. Eckard, motion to adopt by

Council _____, and seconded by Council _____, the vote
was _____.

This ordinance is adopted on this the 28th day June, 2021.

John F. "Chip" Black, Jr., Mayor

Attest: _____
Town Clerk

**Town of Valdese Community Affairs
Old Rock School**

Memo

To: Valdese Mayor & Town Council
From: Morrissa Angi
cc: Seth Eckard
Date: 6/28/2021
Re: Location for Family Friday Nights

Please consider this memo a brief summary of the presentation to be considered on June 28th.

Moving the concert series to the Old Rock School field has resulted in positive feedback from event attendees, performers, police, and residents. We have seen record numbers and many attendees have shared their desire for the concerts to remain on the field. In response, Community Affairs staff has disseminated surveys to all businesses who remain open on Friday nights as well as concert attendees.

In previous years, the Friday concerts have seen large numbers in the Town Parking lot next to the former Wells Fargo building, so much so that the event has potentially outgrown this location. On average, attendance in the town parking lot location has ranged from 200 to 250 people each Friday night. Large crowd numbers at the town parking lot create safety issues which are a deterrent to attendees with young children. Accessibility for those with mobility issues and limited parking are also issues which cannot be easily remedied.

Locating the event within the closest proximity to merchants is desirable. However, there are multiple advantages to holding the concert at the Old Rock School field. The field is more than three times the size of the town parking lot. Many attendees comment on how much cooler the grassy area is and the number of families in attendance has greatly increased. On average, the concerts on the field have seen more than 550 people each Friday.

This presentation weighs the pros and cons of each location while sharing solutions to issues that could arise with either moving the location to the field permanently, or resuming at the parking lot. It is important to note that this presentation does not impact the Independence Day Celebration or Waldensian Festival.

After much consideration, staff recommends that the Family Friday Night Summer Concert Series continue on the Old Rock School field.

Sincerely,



Morrissa W. Angi
Valdese Director of Community Affairs & Tourism

Memorandum

To: John Black, Mayor
Town Council Members

From: Larry Johnson, Planning Director

Date: June 16, 2021

Subject: Adoption of Development Legislative/Statutory Requirements
North Carolina General Statutes Chapter 160D

The North Carolina General Assembly is requiring all government jurisdictions to comply with the new legislative and statutory requirements of N.C.G.S. Chapter 160D before July 1, 2021. To comply with the requirements and deadline, proposed amendments to the Zoning, Subdivision, Fire Prevention, and Protection ordinances along with the Minimum Housing Standards are attached. The deletions (strike through) and the additions (underlining) are reflected in each.

During the public hearing, staff will present an overview of the Chapter 160D amendments, particularly to the Zoning and Subdivision regulations and the recommendation of the Valdese Planning Board. If Town Council approves the amendments under consideration, an ordinance for adoption has been prepared by Town Attorney Marc Mitchell.

If you have comments or questions before the public hearing, please contact me.

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.

(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 reinspection authorized herein, or the failure to inspect or reinspect, 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 Fire Code as amended from time to time is hereby adopted into this Code and incorporated by reference as though fully set out in this chapter. Appendices B (Fire-Flow Requirements for Buildings), C (Fire Hydrant Locations and Distribution), and D (Fire Apparatus Access Roads) of the North Carolina Fire Code are also adopted as part of this Code and incorporated by reference.

(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.

(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.

(e) Permits.

(1) This Code shall require the issuance of all mandatory and optional permits from the fire chief or his designated representative as set forth in Chapter 1, "Administration," the North Carolina Fire 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 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 representative, and prescribed in Chapter 1 of the North Carolina Fire 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.

(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.

(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.

(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.

(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 of civil penalties adopted by the town council. The civil penalty schedule 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 the schedule of civil penalties referred to in (h)(3) above.

(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~~ (160D-1102), the town council has adopted an inspection schedule that is on file in the office of the clerk and the fire chief for inspection.

Annually:	Hazardous, Institutional, High Rise, Assembly except those noted below, and Residential except one- and two-family dwelling and only interior common areas of dwelling units of multifamily occupancies. New and existing lodging establishments, including hotels, motels, and tourist homes that provide accommodations for seven or more continuous days (extended-stay establishments), bed and breakfast inns, and bed and breakfast homes as defined in N.C.G.S. 130A-247 for the installation and maintenance of carbon monoxide alarms and detectors in accordance with N.C.G.S. 143-138(b2).
Once every two years:	Industrial and educational (Except public schools).
One 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 ordinance is intended to prevent the jurisdiction from conducting more frequent inspections than the schedule listed above or the schedule frilled with the Engineering Division of the North Carolina Department of Insurance.

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 displays 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 actors, including weather, wind, etc.
- (4) Degree of anticipated disturbance through noise and light to nearby properties.

Section 3-2024 through section 3-2030 reserved.

PART 9 – PLANNING AND REGULATION OF DEVELOPMENT

CHAPTER 1 – BUILDING REGULATION

ARTICLE D. – MINIMUM HOUSING STANDARDS

State Law reference— Municipal housing standards authorized, G.S. § ~~160A-441~~ 160D, Article 12, et seq.

Sec. 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.

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.

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.

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.

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~~ expelling 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.

Sec.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~~ 160D-2101, 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 are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this Town are fit for human habitation.

~~State Law reference~~—Similar provisions, G.S. § 160A-441.

Sec. 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.

Sec. 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.

State Law reference— *Similar provisions, G.S. § 160D-2101*

Sec. 9-1065. ~~— Alternative remedies~~ Supplemental Nature of Article.

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.

State Law reference— Similar provisions, G.S. § ~~160A-450~~ 160D-1212

~~Sec. 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. [TJ1]~~

~~State Law reference— Power to inspect, G.S. § 160A-412, 160A-424, 160A-448, 160D-1210.~~

~~Sec. 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 [TJ2].~~

Sec. 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. Authorization for defining conditions dangerous or injurious to health; safety; or welfare; of the occupants: G.S. § 160D-1205

Sec. 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.

Sec. 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.
- (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.

Sec. 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.

Sec. 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.
- (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.

Sec. 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.

~~State Law reference - G.S. §136-443.1~~

Sec. 9-1074. - Electricity.

The minimum electrical standards are as follows:

- (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.

Sec. 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.
- 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.
- (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.

Sec. 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.

- (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.

Sec. 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.[TJ3]

Sec. 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.

Sec. 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.

State Law reference— Similar provisions, G.S. §15-27.2

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 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.

State Law reference— Similar provisions, G.S. § ~~160A-445~~ 160D-1206

Sec. 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.

State Law reference— Similar provisions, G.S. § ~~160A-446(g)~~ 160D-1208(e)

Sec. 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 with 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.

State Law reference— Similar provisions, G.S. § ~~160A-446(f)~~ 160D-1208(d)

Sec. 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.

Sec. 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.

State Law reference— Similar provisions, G.S. § ~~160A-448~~ 160D-1210

Sec. 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 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 (subsection q) 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." The powers of the official set forth in 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 repair, alteration, or vacate and close 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. Occupation of a building so posted shall constitute a misdemeanor.
- (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.
- (h) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the Town pursuant to section 9-1085 (e)-(g).

State Law reference— Abatement procedures, G.S. § 160D-1203 [A-443](#).

Sec. 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. 160D-1208 A-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.

State Law reference— Similar provisions, G.S. § 160D-1208 A-446(c), (d), (e).

Sec. 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.

State Law reference— Similar provisions, G.S. § 160D-1208 A-446(f)

~~Sec. 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. [TJ4]~~

Sec. 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 separate offense. Any violation of this section shall subject the offender to a civil penalty.

Sec. 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.

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.

Sec. 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.~~ [TJ5]

ARTICLE E. – MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS

Sec. 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.

Sec. 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.

Sec. 9-1095. - Procedure for enforcement.

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 (b) below 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.~~ If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

- (a) *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. §160D-1129 ~~A-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.~~ [TJ6]

(d) *Order* [TJ7]. – If, after notice and hearing, the public officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this Article, the public officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(e) *Limitations on Orders.* –

(1) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this Article or to vacate and close the nonresidential building or structure for any use.

(2) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value.

(3) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(f) *Action by Governing Board Upon Failure to Comply With Order.* –

(1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Town Council may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners

in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The public officer may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Town Council may adopt an ordinance ordering the public officer to proceed to effectuate the purpose of this section with respect to the particular property or properties that the public officer found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by this Article. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the public officer may cause the building or structure to be removed or demolished.

(g) Action by Governing Board Upon Abandonment of Intent to Repair. – If the Town Council has adopted an ordinance or the public officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the Town Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the local government in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Town Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days.

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the Town Council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property

owner in the grantor index. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.

(h) Ejectment. – If any occupant fails to comply with an order to vacate a nonresidential building or structure, the public officer may file a civil action in the name of the Town to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. 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 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 officer produces a certified copy of an ordinance adopted by the Town Council pursuant to subsection (f) of this section to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure 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 under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the Town Council has ordered the public officer to proceed to exercise his or her duties under subsection (f) of this section to vacate and close or remove and demolish the nonresidential building or structure.

(i) Civil Penalty. – The governing board may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to this section. However, the imposition of civil penalties shall not limit the use of any other lawful remedies available to the governing board for the enforcement of any ordinances adopted pursuant to this section.

Sec. 9-1096. - Appeal; finality of order if not appealed.

Any owner who has received an order under G.S. § ~~160A-429~~ 160D-1129 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

~~Sec. 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.~~

State Law reference— Similar provisions, G.S. § 15-27.2

Sec. 9-1098. - Actions by Town Council.

- ~~(a) The powers of the official as set forth in section 9-1097 (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.~~

Sec. 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 recover by the Town pursuant article 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.~~^[TJ8]

Sec. 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. 160D-1129(i) ~~A, Art. 10.~~

Sec. 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 9-1095 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.

Sec. 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 or laws.

Sec. 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.

~~Sec. 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.~~^[TJ9]

~~Sec. 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.~~^[TJ10]

~~Sec. 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.~~^[TJ11]

Sec. 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 report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

ARTICLE F. — ABANDONED MANUFACTURED HOMES

Sec. 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.~~

Sec. 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~~

Sec. 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.~~

Sec. 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.~~

Sec. 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.~~

Sec. 9-1113 - Appeals

- ~~(a) Within the 60-day period mentioned in Sec. 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 Sec. 9-1111, but if the Board of Adjustment shall determine that the findings of the enforcement official pursuant to Sec. 9-1109 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.~~

Secs. 9-1114—9-1070. - Reserved. ^[TJ12]

ZONING REGULATIONS

TOWN OF VALDESE

NORTH CAROLINA

WESTERN PIEDMONT COUNCIL OF GOVERNMENTS

Adopted 1984

TOWN OF VALDESE PLANNING DEPARTMENT

Amended 1999

Amended 2001

Amended 2008

Amended 2017

Amended 2021

ARTICLE A PRELIMINARY SECTIONS

9-3001 Purpose

Chapter 160D 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 the 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 Chapters, and for other purposes.

9-3002 Authority

The Valdese Town Council enacts this Chapter ~~pursuant to~~ under the authority granted by the General Statutes of North Carolina ~~(Chapter 160A, Article 10, Part 3)~~ Chapter 160D.

The provisions of this Article shall apply to all development regulations and programs adopted under Chapter 160D or applicable or related local acts. To the extent there are contrary local provisions, G.S. 160D-111 is applicable.

9-3003 Short Title

This chapter should be known as the "Zoning Chapter" or "Watershed Chapter," and the map identified by the title "Official Zoning Map, Valdese, NC," may be known as the "Zoning Map" or the "Watershed Map."

9-3004 Jurisdictions

Planning and development provisions of Chapter 160D shall apply to all property within the corporate limits of the Town of Valdese.

9-300~~6~~5 Identification of Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town of Valdese Clerk, and bearing the seal of the Town of Valdese. Said Map shall be retained in the office of the Planning Department of the Town of Valdese.

***Sections 9-300~~8~~6 Development Approvals Run With Land* ~~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 of Valdese. Said Map shall be retained in the office of the Planning Department of the Town of Valdese.~~

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made under this Chapter 160D-104 attach to and run with the land.

Sections 9-300~~9~~7 through 9-3010 reserved.

ARTICLE B DEFINITIONS

9-3011 Interpretation and Definition of Terms and Words

(a) ~~For the purpose of interpreting~~ To interpret this Chapter, certain words or terms are herein defined. Unless otherwise stated, the following words shall have the meaning herein defined.

- (1) Words used in the present tense include the future tense.
- (2) Words in the singular include the plural; words in the plural include the singular.
- (3) The word "person" includes ~~a firm, association, organization, corporation, trust, and company as well as~~ an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, a public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.
- (4) The word "lot" includes the word "structure".
- (5) The word "building" includes the word "structure".
- (6) The word "shall" is mandatory, not a directory.
- (7) 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".
- (8) The word Zoning Enforcement Officer includes the word Watershed Administrator.

9-3012 Definitions

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. See Section 9-3039)

Administrative decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards outlined in Chapter 160D or Town of Valdese

development regulations. (Also referred to as ministerial decisions or administrative determinations)

Administrative hearing: A proceeding to gather facts needed to make an administrative decision.

Adult Establishment: Any structure or use of land which meets the definitions as outlined in North Carolina General Statute Sec. 14-202.10. Licensed masseurs (e.g. 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~~ adjoining 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 multiple structures intended for use as a residence by a single family.

Artisan Food and Beverage Producer: An establishment that engages in onsite 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, distilleries, and wineries.

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 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 institutions engaged in deposit banking and closely related functions such as the extension of credit ~~by means of~~ through 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, nightclubs, 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 adjacent premises. (See 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 to achieve water quality protection goals.

Boarding House: A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, where 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 Purposes: *Agricultural Activities as outlined in G.S.160D- 903*

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.~~ A strip of land that may include trees, shrubs, a fence, and/or a berm designed to separate, protect, and/or screen one land use from neighboring land uses.

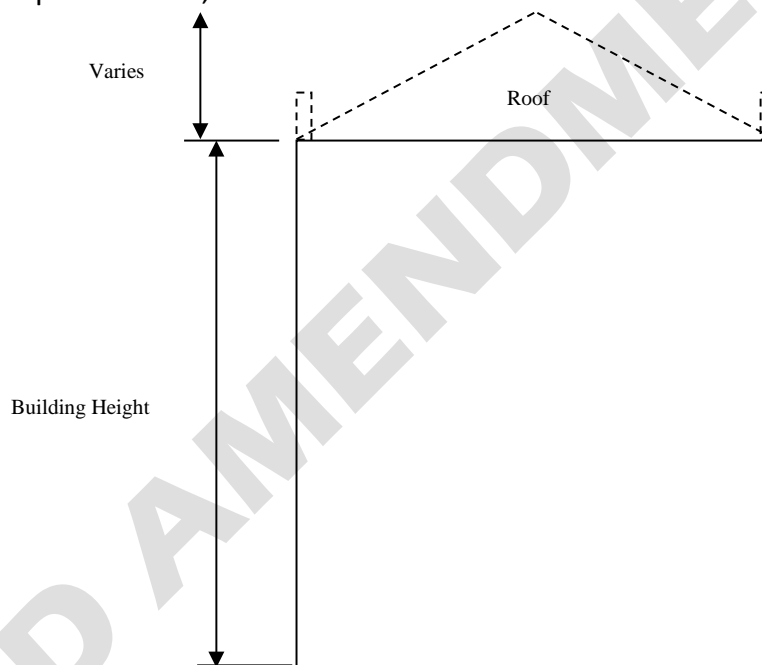
Buffer (Watershed): An area of natural or planted vegetation through which stormwater runoff flows diffusely so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded waters and the bank of each side of free-flowing streams, rivers, branches, etc.

Building: or "buildings". ~~An independent enclosed structure, anchored to a permanent foundation and having exterior or part walls and a roof designed for the support, shelter or enclosure of person, animals chattels or property of any kind. Any structure used or intended for supporting or sheltering any use or occupancy.~~ The connection of two buildings ~~by means of~~ utilizing 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-Up 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.

Carport: An accessory structure that provides shelter for vehicles or boats, and is open on all sides.

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.

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 columbarium's, mausoleums, or similar structures are located.

Certificate of Occupancy: Permit that is issued by the Town of Valdese 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.

Charter: *As defined in G.S. 160A-1(2)*

Child Care Institution: An institutional facility housing orphaned, abandoned, dependent, abused, or neglected children.

City: *"City" means a municipal corporation organized under the laws of the State of North Carolina. The term "city" is interchangeable with the term "town" and is used throughout the Zoning and Subdivision Regulations. "Town" shall reference the Town of Valdese.*

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 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 this Chapter, planned unit development and mixed-use development are considered cluster developments.

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 Valdese 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 Valdese community.~~

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~~ also 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.

County: or "Burke County"

Craft Distillery: An establishment where grains and/or fruits are distilled into spirituous liquor not to exceed 100,000 proof gallons per year, and which may include bottling, storage, and aging facilities, as well as an area devoted to the sampling and sales of spirits-related products.

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 the 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 ridgeline 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 are 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.

Decision-making board: The Town Council, Planning Board, or Board of Adjustment, assigned to make decisions under Chapter 160D.

Determination: A written, final, and binding order, requirement, or determination regarding an administration decision.

Developer: A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

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.~~ *Any of the following:*

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, a movement to another site, or demolition of any structure.*
- b. The excavation, grading, filling, clearing, or alteration of land.*
- c. The subdivision of land as defined in G.S. 160D-802.*
- d. The initiation or substantial change in the use of land or the intensity of use of land.*

(This definition does not alter the scope of regulatory authority granted by Chapter 160D.)

Development approval: An administrative or quasi-judicial approval is required before starting any activity, project, or development. Development approvals include zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness, as well as all other regulatory-approvals required by regulations adopted under Chapter 160D.

Development regulation: A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted under Chapter 160D, or a local act or charter that regulates land use or development.

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 9-3062.d Animal Keeping in Special Requirements for Certain Uses)

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.

Dwelling: A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, Accessory: A dwelling 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, the 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 *dwelling(s)* 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 *dwelling* 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 an independent kitchen, sanitary facilities, sleeping facilities, and provided such structure complies with Valdese's Minimum Housing Code.*~~ *A single unit that's provides complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating cooking and sanitation.*

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 a 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

Evidentiary hearing: *A hearing to gather competent, material, and substantial evidence to make findings for a quasi-judicial decision required under Chapter 160D.*

Existing Development: 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 valid ~~local government~~ Town of Valdese approval to proceed with the project, or
- (2) having an outstanding valid building permit as authorized by the General Statutes (~~G.S. 153A-344.1 and G.S. 160A-385.1~~ G.S. 160D-108.1).

Familial Relationship, Close: *A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.*

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 rehabilitation services in a family environment for not more than six resident disabled persons. A 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 are used for dairying or 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 (i.e. banks, credit unions, savings, and loans, etc.), non-depository credit institutions (i.e. 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') 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 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 years) 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, arcades, stairways, elevator shafts, enclosed porches, and balconies, and any below-grade floor areas used for access and storage. Not countable as floor areas 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 restrictive by gates or other devices.

Governing board: *The Town of Valdese Town Council*

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.

Grade: An average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

Group Living: The residential occupancy of a structure by a group of people, who do not meet the characteristics of Dwelling, multiple or multi-family. The size of the group will be larger than the average size of a household. Tenancy is arranged on a month-to-

month basis, or for a longer period. Uses where tenancy may be arranged for shorter periods are generally not considered group living. Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training or treatment, as long as they also reside at the site.

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) that 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 manufacturing, assembling, finishing, cleaning, or developing any product.

Inoperable Vehicle: Any wrecked or non-operable automobile, truck, or another vehicle that 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~~ following Chapter 130A Article 9 of N.C. General Statutes. For this Chapter, this term does not include composting facilities.

Landowner or owner: *The holder of the title in fee simple.*

Land Use Plan: *A plan adopted by the Town that designates future use or reuse of land through text and maps.*

Large Brewery: A brewery with an annual beer production of over 15,000 barrels and may contain a taproom/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.

Local Government: *The Town of Valdese*

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~~ adjoining on and at the intersection of two or more streets. See Article D.

Lot Coverage: The percentage of a lot that 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~~ adjoining on a street. See Article D.

Lot Depth: The average horizontal distance between the front and rear lot lines.

Lot, Landlocked: A lot that does not ~~abut~~-adjoin 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~~ adjoins an approved public street. See Article D.

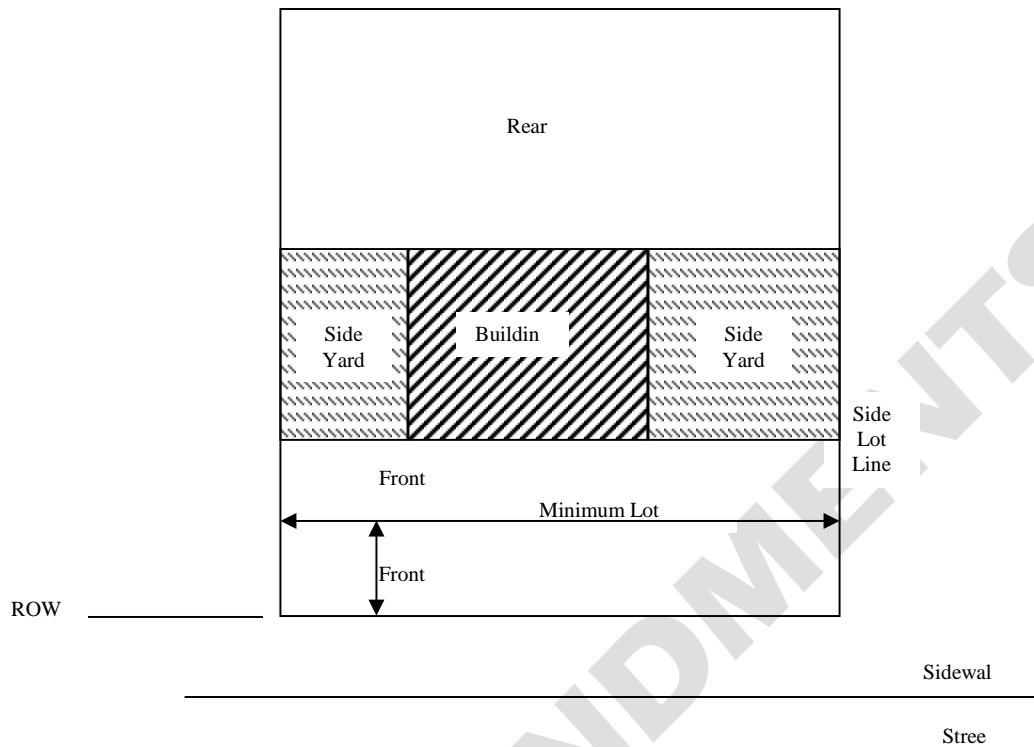
Lot, Interior: A lot in which only one of its sides ~~abuts~~ adjoins a street. See Article D

Lot Line: A property line dividing one lot from another or 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.~~

A structure as defined in G.S. 143-147(7), being a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and for which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their chassis that connect on-site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width.

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 the Valdese Zoning Chapter.

Manufacturing and Production: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of ~~component~~ parts, the creating of products, and the blending of materials, such as oils, plastics, resins, or liquors. Products are generally made for the wholesale market. Manufacturing of goods to be sold primarily on-site and to the general public are classified as Retail Sales and Service.

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 the 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 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 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 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~~ under the standards ~~set forth~~ outlined 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~~ like 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 *before* 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, Off-Street: Space located outside of any street right-of-way or easement and designed to accommodate the parking of motorized domestic and commercial vehicles

Parking Space: A storage space of not less than nine feet by eighteen feet (9' x 18') for one automobile, plus the necessary access space. It shall always be located outside the designated street right-of-way.

Person: *An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, a public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.*

Pet: see Domestic Pets.

Planning Board: - Any board or commission established according to G.S. 160D-301.

Planned Unit Development (PUD): ~~A form of~~ Development characterized by a unified site design for ~~a number of several~~ 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 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 and development regulations jurisdiction: The area within which the Town is authorized to plan ~~for~~ and regulate development ~~pursuant~~ according to the authority granted in Chapter 160D of the North Carolina General Statutes.

Property: *All real estate property subject to land-use regulation by the Town of Valdese. The term includes any improvements or structures customarily regarded as a part of real property.*

Quasi-judicial decision: *A decision involving the finding of facts regarding a specific application of development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, , and appeals of administrative determinations.*

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 miles upstream of and draining to a water supply reservoir, or to the ridgeline 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 ridgeline of the watershed, whichever comes first.

Recycling Center: A building in which used material is separated and processed before shipment to others who will use those materials to manufacture new products.

Recycling Collection Point: A drop-off point for the 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 other public/quasi-public areas, such as churches and schools.

Recycling Plant: A facility that is not a junkyard and in which recoverable resources, such as 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 places of religious worship, including any accessory use or structure, such as a school, daycare 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.

Retail Sales: Stores selling, leasing, or renting consumer, home and business goods including antiques, appliances, art, art supplies, bicycles, book, butcher, clothing, dry goods, electronic equipment, fabric, food sales, furniture, garden supplies, gifts, groceries, hardware, hobby, home improvement products, household products, jewelry, music, pets, pet food, pharmaceuticals, plants, printed material, stationery, sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light, and medium trucks and other recreational vehicles, shoes, sporting goods, toy, variety, videos, and including similar sale establishments.

Retail Services: Establishments providing services, as opposed to products, to the general public for personal or household use, including an attorney, finance, insurance, and real estate offices; galleries, hotels, motels, restaurants, and health educational and social services, and including similar service establishments.

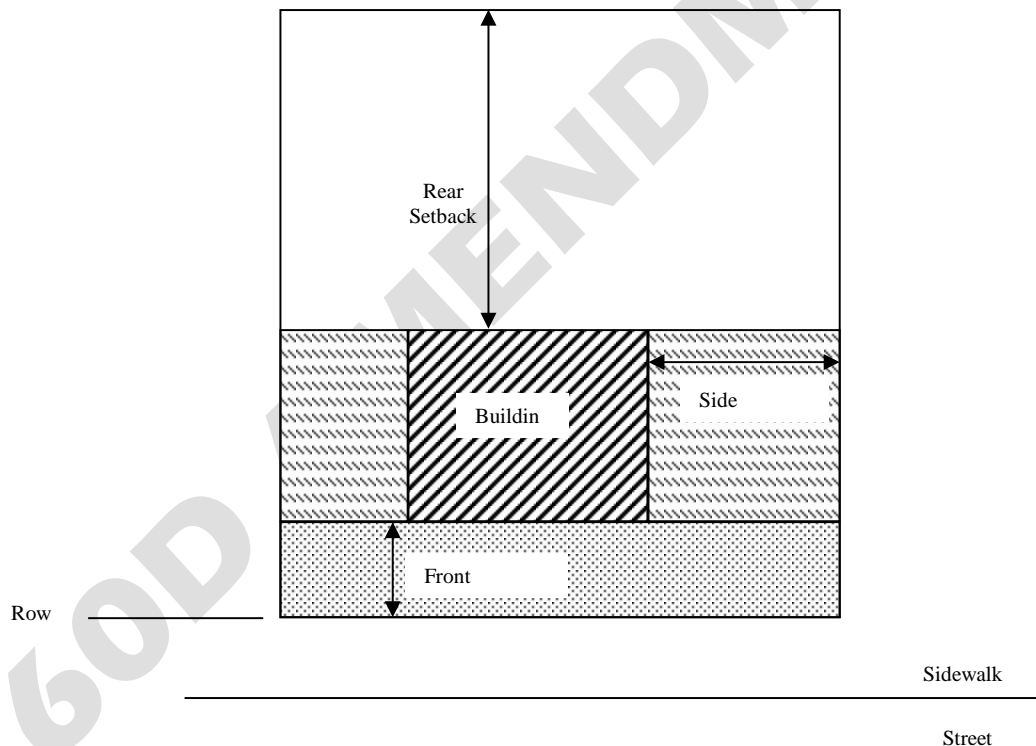
Satellite Dish Antenna: An antenna, three feet (3') or more in diameter, designed to receive television, radio, and other communication signals primarily from orbiting satellites.

Schools: A facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, middle high schools, and high schools.

Senior Housing: Multi-family housing designed for and occupied by persons 55 years of age or older.

Service Station: See Automotive Service Station

Setback: A line establishing the minimum allowable distance between the nearest portion of any or 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. Sign setbacks shall apply to the entire sign including any overhang or projection.



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.

Sign Definitions

- (a) Amortization. *A provision requiring nonconforming signs to either become conforming or be removed within a set period, 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 this Chapter, the area of a wall will be calculated for only the first three stories, or 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, to provide 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; e.g., 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 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 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 adjoining 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 a single, corporation, partnership, or association ownership, planned and developed as an integral unit in a single development operation or a 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 under applicable zoning. Out parcels of shopping centers shall be considered on the premises of the shopping center for 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 street right-of-way lines and a point located along each right-of-way line at a distance of 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 about 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 based on 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 a sign may be a ground-mounted sign or monument sign.

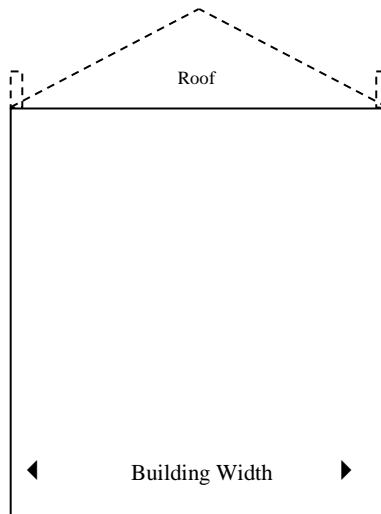
(8) Directional or Instructional Sign. An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance," "Exit," "Parking," "One-Way," or similar direction or

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 and 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) Ground Mounted Sign. A sign that extends from the ground or which has support that places the bottom thereof less than 3 feet from the ground.
- (12) Government Sign. Any temporary or permanent sign erected and maintained for any governmental purposes.
- (13) Flag. A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.
- (14) Flashing Sign. A sign that uses an intermittent or flashing light source to attract attention.
- (15) Identification Sign. A sign that display 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 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 before 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. 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 is 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 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-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 some 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 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 Sign Area. The Wall sign area is the total square footage of all wall signs associated with a business or structure.
- (37) Wall Face Area. Wall Face Area is the total square footage of a building front measured by the building height multiplied by the linear width of the building or store bay.



(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.

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 dwelling unit.

Site Plan: ~~A plan, prepared to scale, showing accurately and with complete dimension, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features for a specific parcel of land.~~ A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height, and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that apply to the project and the site plan review.

Site Specific Vesting Plan: A plan submitted to the Town of Valdese under 9-3041 and subject to the provisions of G.S. 160D-108.1 describing with reasonable certainty the type and intensity of use for a specific parcel or parcels.

Special Use Permit: A permit, which authorizes development or land uses in a particular zoning district which upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards as well as compliance with specific standards, would promote the public health, safety, and general welfare. The term includes permits previously referred to as conditional use permits.

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~~ adjoining 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 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.

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.

Subdivision: The division of land for sale or development as specified in G.S. 160D-802.

Subdivision regulation: A subdivision regulation authorized by Article 8 of Chapter 160D.

Taproom/Tasting Room: A room and use that is ancillary to a brewery, microbrewery, or Brewpub maintained for tasting, selling, and consumption of malt beverages manufactured on premise.

Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).

Temporary Portable Building: A building intended for non-residential use for a limited period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its 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~~ outlined in ~~G.S. 47-30~~ G.S. 160D-802(a)(2), whereby all tracts are greater than 10 acres and where no street right-of-way dedication is involved. A Ten-Acre Development must ~~abut~~ adjoin 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 North Carolina General Statutes, the Board of Adjustment may permit a variance from certain provisions of this Chapter upon making the findings ~~set forth~~ outlined 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 purposes, 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 (e.g. the water supply intake.)

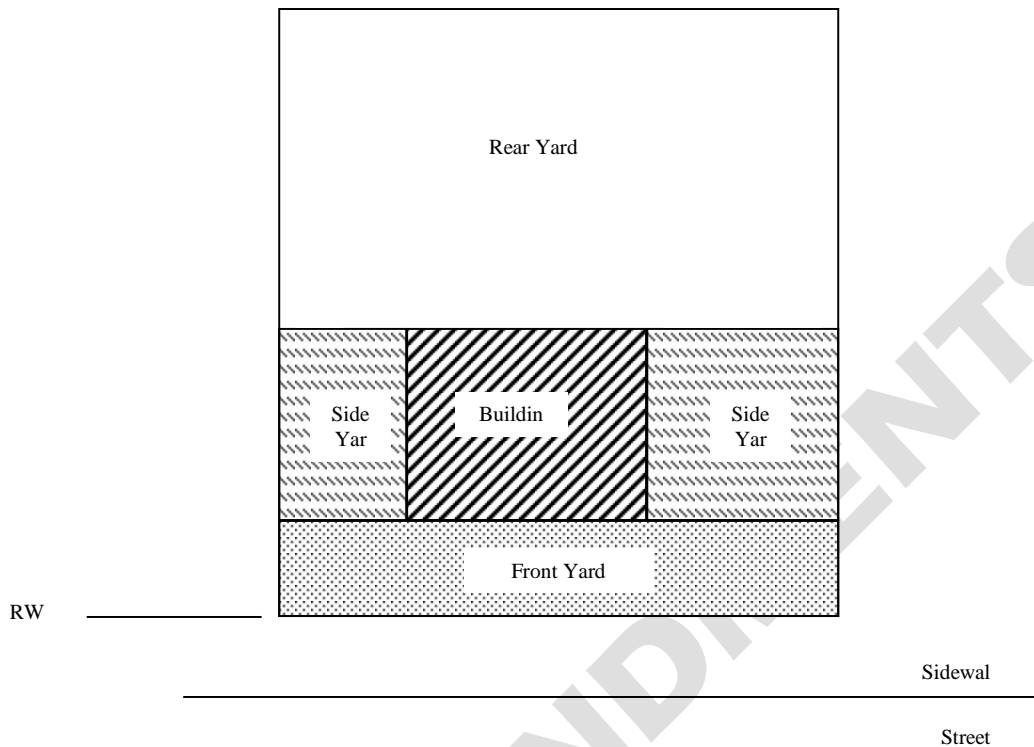
Watershed Administrator: An official designated by the Town responsible for administration and enforcement of this Article. This term shall also include the term "Zoning Enforcement Officer".

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 that produces wine, 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 sideline of the building and the side line of the lot and extending from the front yard line to the rear yard line.

Zoning Map Amendment or Rezoning: *An amendment to a zoning regulation to change the zoning district that is applied to specified property or properties. The term also includes (1) the initial application of zoning when land is added to the territorial jurisdiction of the Town of Valdese that has previously adopted zoning regulations and (2) the application of an overlay zoning district. The term does not include (1) the initial adoption of a zoning map by the Town of Valdese, (2) the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction, or (3) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.*

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".

Zoning regulation: *A zoning regulation authorized by Article 7 of Chapter 160D*

Sections 9-3013 through 9-3020 reserved
--

ARTICLE C
ESTABLISHMENT OF DISTRICTS AND GENERAL RULES

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

9-3022 ~~Interpretation of the~~ Zoning *Districts* Map

- (a) Where, due to the scale, lack of detail, or illegibility of the zoning map, there is uncertainty, contradiction, or conflict as to the intended location of any zoning district boundary as shown thereon, the Zoning Administrator shall ~~make an interpretation~~ *interpret* 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.

Sections 9-3023 through 9-3030 reserved

160D AMENDMENTS

ARTICLE D

GENERAL PROVISIONS

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 to comply 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 records, 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~~ adjoin Public Street. No building shall be constructed, erected upon, or moved to any lot that does not ~~abut~~ adjoin by at least 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 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.

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 provided they conform to the following provisions:

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 nonconforming 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.

9-3032.2 Continuing the Use of Nonconforming Buildings

- (a) Extension of Use Nonconforming buildings and nonconforming uses may not be enlarged. Additionally, no nonconforming structure or use may be enlarged or altered in any way which increases its dimensional deficiencies.

- (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 commercial or industrial use may not be extended, but the extension of use to any portion of a building, which portion is at the time of the adoption of this Chapter primarily designed for such nonconforming use, shall not be deemed to be an extension of a nonconforming use.
 - (4) A ~~Conditional~~ Special 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~~ conform to the provisions of this Chapter.
- (d) Repairs, Maintenance, Damage, or Destruction.
- (1) Minor repairs to and routine maintenance of property where non-conforming situations exist is permitted and encouraged. A major renovation, i.e. works to cost more than 25 percent of the appraised valuation of the structure to be renovated, may be done only ~~in accordance with~~ following the regulations of the district in which it was located. The 25 percent cost limit

stated above shall include all work within any 18 months.

(2) Nothing in this section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, ~~in accordance with~~ following an official order of a public official. When improvements are made to restore the property to a safe condition, the costs of such repairs or alterations shall not be included in the 25% noted in the preceding paragraph.

(3) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed 50 percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only ~~in accordance with~~ per the regulations of the district in which it is located. Any repairs or replacement of a nonconforming situation, including residential structures, must be started (obtain building permit) within 180 days after the initial damage.

(e) Manufactured Homes.

(1) Regarding manufactured homes refer to Article G.

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~~ Special uses are permitted according to the additional regulations imposed. These ~~conditional~~ special 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~~ outlined in this section are at variance with the requirements of any other lawfully adopted rules, regulations, or Chapters, 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.

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 North Carolina General Statutes.

9-3035 Lot of Record

- (a) Where the owner of property consisting of one (1) or more lots of record in any district at the time of adoption of this Chapter or his successor in title does not own sufficient contiguous land to conform to the minimum area and width requirements of this Chapter, such property may be used as a building site, provided that the requirements of the district are complied with or a variance is obtained from the Board of Adjustment.
- (b) Notwithstanding the foregoing, whenever two or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Chapter and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this Chapter for the district in which such lots are located.
- (c) Every lot to be built upon shall ~~abut~~ adjoin, by at least thirty-five (35) feet, a public street or another public way, and no dwelling shall be placed or built upon a lot that does not ~~abut~~ adjoin upon a public street or another 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.

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 the same side of the same

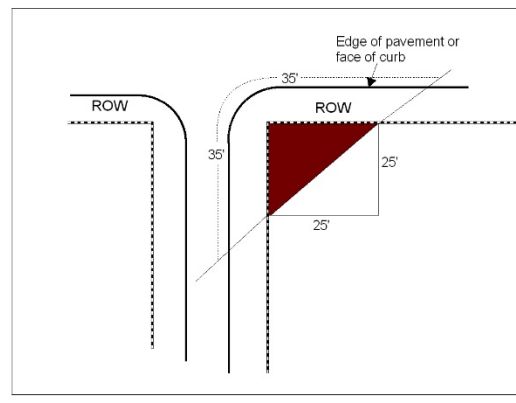
block and use district as such lot is less than the minimum required front yard depth. In such case, the setback on such lots may be less than the required setback but not less than the average of the existing setbacks on the aforementioned lots, or a distance of ten (10) feet from the street right-of-way line, whichever is greater.

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.

9-3038 Visibility at Intersections

- (a) The minimum development standards outlined in this Section shall apply to land ~~abutting~~ adjoining street intersections delineated as follows:



- (1) A triangular area formed by intersecting the sides on the curb (or pavement edge where there is no curb) measuring 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 35-foot sides as illustrated; or
- (2) A triangular area formed by intersecting the street right of way lines measuring 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 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 objects 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 of Valdese may impose additional sight triangles.

Exemptions

(a) The restrictions ~~set forth~~ outlined in 9-3038 shall not apply to the following:

(1) Existing natural grades which, ~~by reason~~ because of the natural topography, rise 30 or more inches above the level of the center of the adjacent intersection;

(2) 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;

(3) Fire hydrants, public utility poles, street markers, governmental signs, electrical junction boxes, and traffic control devices.

(4) 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.

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 percent (30%) 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. ~~In addition~~ Also, the size of the footprint of any accessory structure shall not exceed the size of the total footprint of the principal structure, and the footprint of the accessory structure shall not be greater than 1,000 square feet. 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 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 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.

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 9-3061.

A residential property owner may apply for a ~~conditional~~ special use permit to build a detached garage within the front yard subject to meeting all of the conditions ~~set forth~~ outlined in Section 9-3060.

- (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 200 feet and shall meet all other applicable setbacks. In addition, the size of the footprint of any accessory structure shall not exceed the size of the total footprint of the principal structure, and the footprint of the accessory structure shall not be greater than 1,000 square feet.
- (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 percent (50%) 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 a 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 of five (5) feet from any lot or right of way line.

9-3040 Provisions for Landlocked Lots

- (a) Existing landlocked lots within the residential zoning district, defined as a lot that does not ~~abut~~ adjoin a public street by at least thirty-five (35) feet and therefore does not meet the requirement that the lot has 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~~ for 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 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;
- (5) Landlocked lots shall not be subdivided.

9-3041 Vested Rights

- (a) Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this ordinance.
- (b) The purpose of this section is to implement the provisions of ~~NCG.S. 160A-385.1~~ 160D-108.1 under which a statutory zoning vested right is established upon approval of a site-specific vesting plan.
- (c) Definitions.
 - (1) Approval Authority. Governing Board, 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~~ Vesting Plan as defined in Article B Definitions.
 - (a) ~~A plan of land development submitted to the Town of Valdese for the purposes of obtaining one of the following zoning or land use permits or approvals. The plan may be in the form of, but not be limited to, any of the following plans or approvals:~~

~~(1) Zoning Permit as provided by this Chapter~~

~~(2)i Conditional~~ Special Use Permit as provided by this ~~ordinance~~ Chapter

~~(3) Minor Subdivision Plat approval~~

(4ii) Major Subdivision Preliminary Plat approval as provided in the Town of Valdese Subdivision Regulations.

(iii) Planned Unit Development as provided in this chapter.

(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 shall constitute a site-specific ~~development~~ vesting plan.

(c) A Variance shall not be considered to be a site-specific vesting plan

(3) Zoning Vested Rights. A right under ~~NC~~G.S. 160D-108.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific ~~development~~ vesting plan, provided that such development shall begin within two (2) years following issuance of the zoning vested right.

(a) Two to Five years - A vested right for a site-specific vesting plan remains vested for two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town of Valdese. Notwithstanding the provisions of section, the Town of Valdese may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations.

(b) Seven years, Multi-phased developments – A multi-phased development, if approved, shall have a vested right of seven (7) years for

the entire development with the zoning and subdivision regulations in place at the time of the original. Multi-phased development is defined as a development with a minimum size of 25 acres that is both of the following:

i. Submitted for development permit approval to occur in more than one phase.

ii. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

9-3042 Permitted Accessory Uses and Structures

The following accessory uses are permitted:

- (a) Accessory uses and structures that are related to and incidental to the permitted principal use or structure on the lot (9-3039).
- (b) Fences and Walls
 - (1) 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
 - (1) See Article F, Off-Street Parking Requirements.

9-3043 Setbacks along Thoroughfares

~~Pursuant to~~ Under the authority granted by G.S. ~~160A-306~~ 160D-916 the following setback requirements shall apply to lots along thoroughfares:

- (a) The minimum street setbacks for lots in each zoning district that ~~abuts~~ adjoins a thoroughfare shown in the Adopted Thoroughfare Plan shall be measured from the

existing right-of-way line for each classification of the thoroughfare and shall meet the following requirements:

Thoroughfare Classification	Additional Setback
Existing street recommended for securing additional right-of-way of 10 feet or less	10 feet
Existing street recommended for securing additional right-of-way of more than 10 feet	One-half the difference between the existing and recommended rights-of-way, but less than 10 feet
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.

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 60 days after adoption. This 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 per the following standards:

(1) All structures shall comply with applicable provisions of this Chapter and the North Carolina State Building Code as adopted by N.C. State Building Code Council, and the Town Minimum Housing Code, and other building Chapters 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: North Carolina 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 20 percent of its exterior roofs, walls, and other elements of the structure covered with disfigured, cracked, or peeling surface materials for more than 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 more than 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 12 inches in height in an untended manner for more than 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.
- (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 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 junkyard.~~

9-3045 Home Occupations

- (a) In a zoning district in which a home occupation is permitted, the home occupation must meet the following requirements:
- (1) The home occupation must be 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 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 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 regularly.
 - (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.
 - (14) In no case shall a home occupation be open to the public at times earlier than 8:00 a.m. ~~nor~~ no 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-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 the 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~~ before the date of adoption of this section and approved by zoning permit) home occupation, made non-conforming by this section, may be continued for two (2) years after the 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) General sales representative
- (24) Tutoring
- (25) Furniture upholstery

(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
- (9) Furniture construction
- (10) Kennels
- (11) Machine shops
- (12) On-site vehicular sales
- (13) Rental businesses
- (14) Engine/mechanical repair shops
- (15) Trucking services
- (16) Welding shops

- (17) Other uses not listed as a permitted use.

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 of Valdese by promoting the environmental and public benefits of buffers. It is intended to improve compatibility and provide a transition between different zones and preserve the character and aesthetics of an area (see “Buffer” definition in Section 9-3012).

9-3046.1 Standards

- (a) When an 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.
- (b) The planted buffers as provided in Section 9-3046 shall be required in all industrial and commercial zones when these areas ~~abut~~ adjoin residential zones and for all nonresidential uses in residential zones.
- (c) All plant types required in this article shall consist of plants at least three (3) feet in height when planted.
- (d) 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.
- (e) When the existing natural buffer provides adequate screening, the existing buffer should remain. The Zoning Enforcement Officer shall determine if sufficient buffer does exist.
- (f) The buffer shall be shown in detail on the site plan approved by the Town.
- (g) 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.

- (h) 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.
- (i) 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 six-foot-high wood, basket weave type fence;
 - A six-foot-high picket type fence;
 - A six-foot-high chain-link type fence;
 - A six-foot-high open type fence;
 - A six-foot-high solid masonry wall.

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.

9-3046.2 Planting Specifications

- (a) **Manufacturing-Industrial Zones (M-1) that ~~abut~~ adjoin 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 10 feet apart in each row. One of the plant types listed in section 9-3046.1.4 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~~ adjoin 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 10 feet apart in the row. One of the plant types listed in section 9-3046.1.4 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 relations to~~ with 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 the said difference in elevation.

(d) **Plant types and spacing.**

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.

<i>Plant</i>	<i>Distance Apart (in feet)</i>
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

9-3047 Provisions for Ten-Acre Exempt Developments

Ten-Acre Exempt Developments shall be approved by the Town upon the allowance of a ~~Conditional~~ Special 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 public health, safety, and general welfare.
2. The use will not substantially injure the value of adjoining or ~~abutting~~ adjoining 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~~ following the North Carolina Fire Prevention Code standards.
6. An easement shall be granted to the Town 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.
10. The development shall comply with the requirements outlined in the Code of Chapters Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution, and Chapter 2, Sewer Collection and Disposal.

9-3048 Provisions for Gated Subdivisions

Gated Subdivisions shall be approved by the Town upon the allowance of a Special 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 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~~ following 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 to guarantee access for Public Safety, Public Works, and Planning Department.
8. 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.
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 the Code of Chapters Part 5 Municipal Utilities, Chapter 1, Water Supply and Distribution, and Chapter 2, Sewer Collection and Disposal.

Sections 9-3049 through 9-3050 reserved

ARTICLE E
USE REQUIREMENTS BY DISTRICT

9-3051 ~~Neighborhoods~~ Residential Districts (R-8)

Intent: The district shall provide for town-scaled residential development within walking distance (generally one-fourth ($\frac{1}{4}$) 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.

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 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
- (3) Temporary Health Care Structures

(c) Uses permitted with a ~~Conditional~~ Special 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
 - (14) Detached Garage located in the 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

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.

9-3051.3 Sign Requirements

See Article H of this Chapter.

9-3051.4 Dimensional Requirements

- (a) Minimum Lot Width;
- (1) Single-family Home – 50 feet
 - (2) Two-family Home – 60 feet
 - (3) Multi-family Homes – 70 feet for three dwelling units plus 10 feet for each (4) additional dwelling unit
 - (4) Non-residential buildings – 70 feet

- (b) Minimum Building Setback;
 - (1) Minimum front building setback: 20 feet
 - (2) Minimum side building setback: 10 feet (15 feet for side ~~abutting~~ adjoining a street ROW)
 - (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - (1) Maximum building height for residential structures: 40 feet
 - (2) Maximum building height for non-residential structures: 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~~ before October 1, 1993, to be developed for single-family detached dwellings:
 - (a) either water OR sewer: 20,000 square feet;
 - (b) water and sewer: 8,000 square feet;

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:
 - no water AND no sewer: 40,000 square feet;
 - either water OR sewer: 20,000 square feet;
 - water and sewer: 8,000 square feet;

Maximum permissible impervious surface coverage as defined in this Chapter shall not exceed 36% of the total lot area **or 24% of the total lot area if the lot is located in a WS-4 critical area or ~~abuts~~ adjoins a curb & gutter street system.**

- (b) OPTION 2:

no water AND no sewer:	40,000 square feet;
either water OR sewer:	21,780 square feet (1/2 acre);
water and sewer:	14,520 square feet (1/3 acre), or
	21,780 square feet (1/2 acre) if the lot is located within a WS-4 critical area or if the lot abuts <u>adjoins</u> a curb and gutter street system.

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

Water and sewer required

water and sewer:	8,000 square feet for the first unit,
	4,000 square feet for the second unit, and
	3,000 square feet for each additional unit.

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

Water and sewer required

water and sewer:	8,000 square feet for the first unit,
	4,000 square feet for the second unit, and
	3,000 square feet for each additional unit

Maximum permissible impervious surface coverage, as defined in this Chapter, shall not exceed 36% of the total lot area, **or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.**

(b) OPTION 2:

Water and sewer required

water and sewer: 14,520 square feet (1/3 acre) for each unit, or
**21,780 square feet (1/2 acre) for each unit if the lot is
 located within a WS-4 critical area or if the lot ~~abuts~~
adjoins a curb and gutter street system.**

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 40% of the total lot area.

9-3052 Residential Districts (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.

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
- (8) Neighborhood and outdoor recreation
- (9) Parks
- (10) Single-family Homes, excluding manufactured homes
- (11) Two-family Homes (duplexes)

(b) Uses permitted with Special Requirements:

- (1) Accessory dwellings
- (2) Bed and Breakfast Inns
- (3) Day Care Center

(4) Temporary Health Care Structures

- (c) Uses permitted with a ~~Conditional~~ Special Use Permit:
- (1) Multi-family building
 - (2) Residential Care Facility
 - (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

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.

9-3052.3 Sign Requirements

See Article H of this Chapter.

9-3052.4 Dimensional Requirements

- (a) Minimum Lot Width
- (1) Single-family Home – 70 feet
 - (2) Multi-family Homes – 70 feet for three dwelling units plus 10 feet for each additional dwelling unit
 - (3) Non-residential buildings – 70 feet
- (b) Minimum Building Setback
- (1) Minimum front building setback: 35 feet

- (2) Minimum side building setback: 10 feet (15 feet for side ~~abutting~~ adjoining a street ROW)
- (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - (1) Maximum building height for residential structures: 40 feet
 - (2) Maximum building height for non-residential structures: 50 feet
- (d) Minimum Lot Sizes and Maximum Lot Coverage

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~~ before October 1, 1993, to be developed for single-family detached dwellings:

either water OR sewer: 20,000 square feet;
 water and sewer: 12,000 square feet;

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

no water AND no sewer: 40,000 square feet;
 either water OR sewer: 20,000 square feet;
 water and sewer: 12,000 square feet;

Maximum permissible impervious surface coverage as defined in this Chapter shall not exceed 36% of the total lot area **or 24% of the total lot area if the lot is located in a WS-4 critical area or ~~abuts~~ adjoins a curb & gutter street system.**

- (b) OPTION 2:

no water AND no sewer	40,000 square feet;
either water OR sewer:	21,780 square feet (1/2 acre);
water and sewer:	14,520 square feet (1/3 acre), or
	21,780 square feet (1/2 acre) if the lot is located within a WS-4 critical area or if the lot abuts <u>adjoins</u> a curb and gutter street system.

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

Water and sewer required

water and sewer:	12,000 square feet for the first unit,
	4,000 square feet for the second unit, and
	3,000 square feet for each additional unit.

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

Water and sewer required

water and sewer:	12,000 square feet for the first unit,
	4,000 square feet for the second unit, and
	3,000 square feet for each additional unit.

Maximum permissible impervious surface coverage, as defined in this Chapter, shall not exceed 36% of the total lot area, **or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.**

(b) OPTION 2:

Water and sewer required

water and sewer: 14,520 square feet (1/3 acre) for each unit, or
**21,780 square feet (1/2 acre) for each unit if the lot is
located within a WS-4 critical area or if the lot ~~abuts~~
adjoins a curb and gutter street system.**

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 40% of the total lot area.

9-3053 Residential Districts (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.

9-3053.1 Permitted Uses

- (a) Uses permitted by right:
 - (1) Cemeteries
 - (2) Churches
 - (3) Essential services 1 and 2
 - (4) Family Care Homes
 - (5) Government buildings up to 5,000 square feet of gross floor area
 - (6) Modular Home
 - (7) Neighborhood and outdoor recreation parks
 - (8) Single-family Homes, excluding manufactured homes
- (b) Uses permitted with Special Requirements:
 - (1) Accessory dwellings
 - (2) Bed and Breakfast Inns
 - (3) Animal Keeping
 - (4) Temporary Health Care Structures
- (c) Uses permitted with a ~~Conditional~~ Special 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

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.

9-3053.3 Sign Requirements

See Article H of this Chapter.

9-3053.4 Dimensional Requirements

- (a) Minimum Lot Width
 - (1) Single-family Home – 70 feet
 - (2) Non-residential buildings – 70 feet
- (b) Minimum Building Setback
 - (1) Minimum front building setback: 35 feet
 - (2) Minimum side building setback: 10 feet (15 feet for side ~~abutting~~ adjoining a street ROW)
 - (3) Minimum rear building setback: 25 feet
- (c) Maximum Building Height
 - (1) Maximum building height for residential structures: 40 feet
 - (2) Maximum building height for non-residential structures: 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 Section 1 below.

- (1) Lots deeded ~~prior to~~ before October 1, 1993, to be developed for single-family detached dwellings:

either water OR sewer: 20,000 square feet;

water and sewer: 12,000 square feet;

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 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:

no water AND no sewer: 40,000 square feet;
 either water OR sewer: 20,000 square feet;
 water and sewer: 12,000 square feet;

Maximum permissible impervious surface coverage as defined in this Chapter shall not exceed 36% of the total lot area **or 24% of the total lot area if the lot is located in a WS-4 critical area or ~~abuts~~ adjoins a curb & gutter street system.**

(b) OPTION 2:

no water AND no sewer: 40,000 square feet;
 either water OR sewer: 21,780 square feet (1/2 acre);
 water and sewer: 14,520 square feet (1/3 acre), **or**
21,780 square feet (1/2 acre) if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.

Maximum permissible lot coverage by principal and accessory buildings shall not exceed 30% of the total lot area.

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.

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
 - (6) Community Center
 - (7) Essential services 1 and 2
 - (8) Funeral Homes
 - (9) Financial services
 - (10) Government buildings up to 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 Facility
 - (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~~ Special 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 Home
 - (3) Home occupations
 - (4) Within the O-I District all principal and accessory uses shall be conducted wholly within enclosed buildings ~~with the exception of~~ except for drive-through service, vending machinery, incidental displays of merchandise, displays associated with official festivals, and similar incidental outdoor displays.

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.

9-3054.3 Sign Requirements

See Article H of this Chapter.

9-3054.4 Dimensional Requirements

- (a) Minimum Lot Width
 - None
- (b) Minimum Building Setback
 - (1) Minimum front building setback: 20 feet
 - (2) Minimum side building setback: 10 feet

- An average of 10 feet may meet the side building setback requirements under the following requirements:

-

- A ~~Conditional~~ Special Use Permit is required.
- Under no circumstances shall the principal building be any closer than five (5) feet from the side property line.
- 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: 15 feet

(c) Maximum Building Height

- Maximum building height: 50 feet

(d) Minimum Lot Sizes and Maximum Lot Coverage

- (1) Within the Office-Institutional District, there is no minimum lot size and development activities can cover 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 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.

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 of Valdese. 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.

9-3055.1 Permitted Uses

(a) Uses permitted by right:

- (1) Alcoholic beverages, packaged, retail sales
- (2) Amusements such as indoor theater, poolrooms, 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
- (37) Newsstands, newspaper offices, and printing facilities incidental to such offices
- (38) Office equipment and supplies, sales and service
- (39) Parks
- (40) Pawnshops
- (41) Photographic studios and camera supply stores
- (42) Retail printing, publishing, and reproduction establishments
- (43) Radio and television, electronics repair and sales
- (44) Restaurants, including drive-through windows as an accessory use
- (45) Retail, Sales and Services
- (46) Shoe repair shops
- (47) Tailor, dressmaking, and millinery shops
- (48) Taxi stands
- (49) Telecommunication offices
- (50) Theaters, indoor

(b) Uses permitted with Special Requirements:

- (1) Bed and Breakfast Inns
- (2) Day Care Center
- (3) Outdoor Seasonal Sales
- (4)
- (6) Artisan Food and Beverage Producer

(c) Uses permitted with a ~~Conditional~~ Special 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.

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.

9-3055.3 Sign Requirements

See Article H of this Chapter.

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: 0 feet
 - (2) Minimum side building setback: 0 feet (15 feet for side ~~abutting~~ adjoining a residential district)
 - (3) Minimum rear building setback: 0 feet (15 feet for side ~~abutting~~ adjoining a residential district)
- Note: If the side or rear yards are provided they must be at least 10 feet in width.

(c) Maximum Building Height

- Maximum building height: 50 feet

(d) Minimum Lot Sizes and Maximum Lot Coverage

Within the B-1 Central Business District, there is no minimum lot size and development activities can cover 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 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.

9-3055.5 Amortizations of Certain Conditions within the B-1 Districts

- (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 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 7 days shall cease within 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.

160D AMENDMENTS

9-3056 General Business District (B-2)

Intent: The General Business District intends to encourage the establishment of areas for a general business that does 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 residents.

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 the property line of 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, poolrooms, 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 2 vehicles shall be built or provided.
- (c) The storage of inoperable vehicles for more than 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
- (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
- (35) Hospice and Palliative Care Facility
- (36) Hospitals
- (37) Hotels, Motels, boarding houses
- (38) Laundromats

- (39) Locksmiths
 - (40) Massage therapy
 - (41) Medical or professional services
 - (42) Mixed uses
 - (43) Mini-warehouses
 - (44) Museums
 - (45) Neighborhood and outdoor recreation
 - (46) Newsstands, newspaper offices, and printing facilities incidental to such offices
 - (47) Nursing Homes
 - (48) Residential Care Facilities
 - (49) Office equipment and supplies, sales and service
 - (50) Parks
 - (51) Pawnshops
 - (52) Photographic studios and camera supply stores
 - (53) Plumbing, heating, and refrigeration sales/service, but excluding open storage
 - (54) Public garages
 - (55) Radio and television, electronics repair and sales
 - (56) Restaurants, including drive-through windows as an accessory use
 - (57) Retail, Sales and Services
 - (58) Retail printing, publishing, and reproduction establishments
 - (59) Service stations (See Automotive Service Station)
 - (60) Shoe repair shops
 - (61) Tailor, dressmaking, and millinery shops
 - (62) Taxi stands
 - (63) Telecommunication offices
 - (64) Theaters, indoor
 - (65) 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
 - (8) Manufacturing and Production

(c) Uses permitted with a ~~Conditional~~ Special 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

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.

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.

9-3056.3 Sign Requirements

See Article H of this Chapter.

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: 40 feet
- (2) Minimum side building setback: 10 feet (20 feet for side abutting a residential district)
 - An average of 10 feet may meet the side building setback requirements under the following requirements:
 - (a) A ~~Conditional~~ Special 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: 10 feet (20 feet for side ~~abutting~~ adjoining a residential district)

(c) Maximum Building Height

- Maximum building height: 50 feet

(d) Minimum Lot Sizes and Maximum Lot Coverage's

Within the B-2 General Business District, there is no minimum lot size and development activities can cover 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 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.

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.

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 Center
 - (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 slaughterhouses; 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 materials such as uncured hides, explosives, and nuclear waste products
 - (18) Large Breweries
 - (19) Winery
- (b) Uses permitted with a ~~Conditional~~ Special 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

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.

9-3058.3 Sign Requirements

See Article H of this Chapter.

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: 25 feet (50 feet where ~~abutting~~ adjoining a residential district, excluding right-of-way)
- (2) Minimum side building setback: 10 feet (50 feet for side ~~abutting~~ adjoining a residential district)
 - An average of 10 feet may meet the side building setback requirements under the following requirements:
 - (a) A ~~Conditional~~ Special 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: 20 feet (50 feet for side ~~abutting~~ adjoining a residential district)

- (c) Maximum Building Height
 - (1) Maximum building height: 50 feet
 - (2) Buildings exceeding 50 feet in height are permitted upon issuance of a ~~Conditional~~ Special Use Permit
- (d) Minimum Lot Sizes and Maximum Lot Coverage

Within the M-1 Manufacturing District, there is no minimum lot size and development activities can cover 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 36% of the total lot area, or 24% of the total lot area if the lot is located within a WS-4 critical area or if the lot ~~abuts~~ adjoins a curb and gutter street system.

9-3059 Flood Plain Overlay District (FP)

Intent: This district is intended to assist in protecting against the 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 of Valdese. Uses in this district are intended to be associated with open space, recreational and agricultural land uses and shall not hinder the movement of floodwaters.

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, i.e. 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~~ Special Use Permit:
 - (1) Essential Services 3
 - (2) Marinas
 - (c) Permitted accessory structures and uses:
 - (1) Accessory uses permitted in underlying zoning district(s)

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.

9-3059.3 Sign Requirements

See Article H of this Chapter.

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 per the underlying zoning district(s)

(d) Minimum Lot Sizes and Maximum Lot Coverage

Lot sizes and coverage shall meet the underlying zoning district requirements.

9-3060 Special Requirements for Certain Uses

9-3060.1 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 the 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 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 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.
- (7) The maximum height for an Accessory Dwelling shall be 20 feet.
- (8) An Accessory Dwelling must be registered with the Planning Director at the time a certificate of occupancy is obtained.

9-3060.2 Crematory or Crematorium

Crematory or Crematorium is subject to the following requirement:

- (1) 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.
- (2) License: Any funeral home operating a crematory shall have and maintain a licensed crematory manager on staff, keep in force and affect all other licenses required under the North Carolina Crematory Act, and provide proof of continued re-licensing.
- (3) Air Quality: Before 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 a permit.

- (4) Building: The maximum footprint of the crematory shall not exceed 400 square feet. The exterior/veneer must be of similar material and design as the principal structure.
- (5) Size: Crematory operations shall not contain more than one (1) cremation chamber.
- (6) Location: No crematory shall be established on a funeral home lot within 200 feet of any existing residential dwelling on adjacent parcels or within 150 feet of any property line.
- (7) 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.

9-3060.3 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, daycare 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 per 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 of 25 square feet of indoor space per child;
- (5) A Day Care Center shall provide a minimum of 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;
- (8) Day Care Centers in a residential district on a site greater than three 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.

9-3060.4 Kennels

Kennels are subject to the following requirements:

- (1) The minimum lot size for a Kennel shall be as outlined 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 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 over 6 acres.

- (2) Outdoor Kennels shall maintain a minimum setback of 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 200 feet from all lot lines.
- (4) Indoor Kennels shall maintain a minimum setback of 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 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.

9-3060.5 Outdoor Seasonal Sales

Outdoor Season Sales are subject to the following conditions:

- (1) Outdoor Seasonal Sales may be open for eight (8) weeks per calendar year.
- (2) The use may be located on a vacant lot or 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 a 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 20 feet.
- (7) Sale items shall not be located in the sight distance triangle as outlined in 9-3038, Visibility at Intersections.
- (8) Any signage shall be per 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 or more sides

9-3060.7 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 principal 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:
 - (i) 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.
 - (ii) 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.
- (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 outlined in the Town's fee schedule.

9-3060.8 Artisan Food and Beverage Producer
--

Artisan Food and Beverage Producer are subject to the following requirements:

- (1) The total floor area shall not exceed 5,000 square feet. The 5,000 square foot limitation does not apply to the M-1 Manufacturing District
- (2) Shall include one or more accessory uses such as a tasting room, taproom, restaurant, retail, demonstration area, education, and training area 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 other standards of the zoning district having jurisdiction
- (5) 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.
- (6) Shall include one or more accessory uses such as a tasting room, taproom, restaurant, retail, demonstration area, education, and training area or other use incidental to the artisan food and beverage producer.
- (7) Conditions with the building shall be controlled to minimize noise and odor
- (8) Must comply with all other standards of the zoning district having jurisdiction

9-3060.6 Bed and Breakfast Inns
--

Bed and Breakfast Inns are subject to the following requirements:

- (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, a maximum of 4 square feet, is permitted.
- (4) Minimum parking spaces required – 2 spaces plus 1 space for each room

devoted to guest accommodations.

9-3060.9 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.

Section 9-3061 Detached Garages
--

General Requirements: Shall apply to all detached garages located in front or side yards.

- (a) The garage shall not be used as a dwelling unit.
- (b) The garage must meet all minimum setback requirements for the primary structure in the applicable zoning district.

- (c) The maximum wall height shall not exceed 15 feet.
- (d) The footprint of any detached garage shall not exceed six hundred seventy-six square feet (676 sf), or 10 percent of the lot area up to 1,200 square feet, whichever is greater.
- (e) The garage shall be enclosed with an operable garage door to be maintained in good working order.
- (f) If the garage door is on the front façade, the door shall be kept closed when the house is unoccupied for more than a day.
- (g) The outside walls of the garage shall not be clad with metal siding, and the building shall be completely enclosed.
- (h) The garage shall be constructed of materials similar to materials used in the principal structure.
- (i) A breezeway connection between a single-family dwelling and detached garage is allowed provided the following design standards are met:
 1. The breezeway must be physically attached to both buildings.
 2. The breezeway must be at least 6 feet in width and can be no more than 30 feet in length.
 3. The breezeway must consist of a roof, with more than sixty percent of the total perimeter enclosed by walls, doors, or windows.
 4. The breezeway height shall not exceed 15 feet, measured from the average grade to the highest part of the structure.
 5. Walkways are not permitted on the roof of a breezeway.

~~Conditional~~ Special Use Requirements:

- (a) The proposed location of the garage is completely or partially within the front yard.
- (b) The materials used in the construction must meet or exceed the quality and appearance of the principal residence.

- (c) 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.
- (d) A minimum of 75 percent of the principal structure shall be visible from all viewpoints along the front property line.
- (e) Shall only be allowed in a residential lot that has a natural ground slope of 25% 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 18% due to topography and/or natural obstructions.
- (f) 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.

Section 9-3062 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 Chapter applies to properties located within the corporate limits of the Town.
2. "Fowl" and "birds" include the following: chickens, game hens, ducks, swans, geese, and other birds typically used as food. This definition for animal keeping does not include parrots, parakeets, and other non-food birds.

B. Prohibitions.

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:

(1a.) Allowed only in the R-12 Residential Zoning District

(2a.) A minimum of three acres of property is available for each horse

(3a.) The part of the property where the horse is kept shall be completely enclosed by a fence.

2. Chickens.

- (b) The keeping of chickens is permitted in the R-8, R-12, and R-12-A Residential Districts, provided the following conditions are met:

(1a.) Maximum number of chickens on the property - 10

(2a.) No Roosters are allowed

(3a.) Placement of the pen shall be in the rear yard only

(4a.) No free-range (chickens are penned all times)

(5a.) Pens shall be a minimum of 100 feet from all adjoining residences

(6a.) Pens shall be a minimum of 50 feet from all property lines

(7a.) Must comply with all applicable provisions of the Town of 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 6 domestic animals per dwelling unit is permitted subject to restrictions outlined in Section 8.2008 through Sections 8-2012, and Section 8-2022 of the Town of Valdese Code of Chapter. Birds (canary, parakeet, etc.); amphibian/reptile (turtle, lizard, etc.); rodent (rat, hamster, gerbil, etc.); and tropical fish are excluded from the numerical limitations.

<p>Section 9-3063 Manufacturing and Production</p>

Manufacturing and Production in the B-2 General Business District are subject to the following requirements:

- (A) All activities shall be conducted entirely within an enclosed building.
- (B) Outdoor storage of goods and materials used in the assembly, fabrication, or processing is prohibited.
- (C) Total floor area shall not be more than 10,000 square feet per zoning lot.
- (D) Business shall not employ more than 20 employees.
- (E) Parking and loading requirements shall be per Article F of the zoning Chapter.
- (F) Shall meet all North Carolina State environmental standards.

Section 9-3064 through 9-3070 reserved Temporary Health Care Structures

Temporary health care structures.

- (a) The following definitions shall apply to Temporary Health Care Structures:
- (1) Activities of daily living. - Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
 - (2) Caregiver. - An individual 18 years of age or older who (i) provides care for a mentally or physically impaired person and (ii) is a first- or second-degree relative of the mentally or physically impaired person for whom the individual is caring.
 - (3) First- or second-degree relative. - A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step, and in-law relationships.
 - (4) Mentally or physically impaired person. - A person who is a resident of this State and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in this State.

- (5) Temporary family health care structure. - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b). Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.
- (b) The Town of Valdese shall consider a temporary family health care structure used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
- (c) The Town of Valdese shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings.
- (d) Only one temporary family health care structure shall be allowed on a lot or parcel of land. Such temporary family health care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure.
- (e) Any person proposing to install a temporary family health care structure shall first obtain a permit from the Town of Valdese. The Town of Valdese may require that the applicant provide evidence of compliance. The evidence may involve the annual inspection by the Town of the temporary family health care structure at reasonable times and convenient to the caregiver, not limited to any annual compliance confirmation and annual renewal of the doctor's certification...
- (f) Notwithstanding subsection (i) of this section, any temporary family health care structure installed under this section may be required to connect to any water, sewer, and electric utilities serving the property and shall comply with all applicable State law, local ordinances, and other requirements, including Article 11 of this Chapter, as if the temporary family health care structure were permanent real property.

- (g) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.
- (h) Any temporary family health care structure installed under this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable.
- (i) The Town of Valdese may revoke the permit granted under subsection (e) of this section if the permit holder violates any provision of this section or G.S. 160A-202. The Town may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. 160A-202.
- (j) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

Section <u>9-3065</u> through 9-3070 reserved

ARTICLE F
OFF-STREET PARKING REQUIREMENTS

9-3071 Parking Spaces to be Required and Permanent

- (a) Off-street parking space shall be provided per 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: 30-degree, 45-degree, 60-degree or 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 of North Carolina maintained roads, an eleven (11) foot lane width is recommended.

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 the 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 10 feet from any public street.
- (h) Required off-street parking spaces for any use shall be located no more than 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.

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 (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.
- (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 30ft in height and the light direction angle shall not exceed 45 degrees from vertical.

9-3073 Enforcement

Each application for a zoning permit 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.

160D AMENDMENTS

9-3074 Schedules 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:

<u>Use Classification</u>	<u>Parking Space Requirement</u>
Single Family	2 for each dwelling unit
Duplex	2 per unit
Group Living Facility	1 per 4 residents
Senior Housing	1 per unit
Multi-family	1.5 per unit
Commercial	1 space for every 500 square feet of gross floor area
Industrial	1 space for every 500 square feet of gross floor area
Office	1 space for every 500 square feet of gross floor area
Warehouse	1 space for every 4,000 square feet of gross floor area
Civic (i.e. churches, fraternal organizations, etc.)	1 space for every 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

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 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 every 5,000 square feet of gross floor area or fraction thereof.
 - (2) Wholesale and industrial operations: One (1) loading space for every 10,000 square feet of gross floor area or fraction thereof.

9-3076 Parking Lot Design Requirements

Off-street parking areas should be designed to create a safe and comfortable passage for pedestrians. All off-street parking lots, including exits, entrances, drives, and parking areas shall:

- (1) Be designed to allow for traffic movement following generally accepted geometric design principles
- (2) Have physical access to a public street
- (3) Be so designed that stormwater runoff from the parking area does not create erosion, flooding, or other nuisance condition or hazard, on the parking area property or adjoining properties or roadways. Wherever practicable, runoff shall be directed into existing stormwater 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.
- (4) 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 Chapter 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

- (5) Be maintained as long as the use, which it serves, exists. Each parking space shall be marked and maintained
- (7) Unless otherwise required by these regulations, all off-street parking with more than 10 automotive vehicles that adjoins any plot zoned or used for single-family residential purposes, shall be screened with landscaped devices following 9-3077.5 to protect residences from light, glare, noise, and fumes.

9-3077 Landscaping of Parking Area

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) parking 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.

(a) Parking area landscaping requirements of this section are as follows:

- (1) Landscaping shall be placed in a manner that meets the intent of this Chapter and shall be maintained.
- (2) Any fraction of requirements shall be rounded up to the next whole number.
- (3) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles, or the approach to any street intersection to constitute a traffic hazard.
- (4) Credit for using existing trees on site greater than or equal to those required by standards shall be two (2) trees for every one tree retained.
- (5) When using an existing tree, the area under the drip line (maximum extension

of branches) of the tree must remain undisturbed. This includes grading, fill, paving, etc.

- (6) If an existing tree dies, it must be replaced with two (2) trees during the next planting season.
- (7) If any vegetation dies, replacement is required within the next planting season.

(b) 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).

- (1) 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.
- (2) There shall be one (1) large shade tree for every two thousand (2,000) square feet of the total parking area.
- (3) There shall be one shrub for every one thousand (1,000) square feet of the 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.
- (4) 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.
- (5) No vehicular parking space shall be farther than fifty (50) feet from a planting area.
- (6) No more than fifty (50 %) percent of the trees and/or shrubs shall be deciduous.

(c) Landscaping requirements for street yards of parking areas:

(Street yards are defined as the area between the public right-of-way and interior area)

- (1) Street yards are required to be a minimum of ten (10) feet in width.

- (2) 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.
- (3) 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: 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 (60%) percent 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 (40%) percent of the required height.

(d) Tree and shrub specifications:

- (1) "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.
- (2) 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.

(e) Abutting property landscaping requirements

- (1) Any non-residential use located or developed on property ~~abutting~~ adjoining any residential district, unless separated by a public street or rail right-of-way, shall provide landscaping as outlined in Section 9-3046.1.2 Buffers. Landscaping shall be provided even if the ~~abutting~~ adjoining 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.

- (2) Screening for any parking area regardless of use or zoning district shall meet the requirements of 9-3046.1.2.

9-3078 Dumpsters/Trash Containers
--

- (a) Dumpsters and trash containers shall meet all the requirements of the Solid Waste Chapter as adopted by the Town.

9-3079 Compliance with Stormwater and Erosion Control Standards
--

- (a) Parking areas constructed or improved under this Article shall comply with all applicable stormwater and erosion control standards adopted by the Town.

Sections 9-3080 through 9-3082 reserved.

ARTICLE G

MANUFACTURED HOMES AND MANUFACTURED HOME PARKS
--

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.

9-3082 Definitions

For this Chapter 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.~~ See Article B – Definitions

- (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.~~ See Article B – Definitions. New manufactured home parks are not allowed in the Town.

160D AMENDMENTS

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.

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 and 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 the 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 underpinning shall be installed following the manufacturer's specifications.
- (c) The under skirting shall be vented in accordance with the North Carolina Building Code.
- (d) The under skirting 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 outlined 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.~~

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 180 days of the removal of the home by only Class A manufactured homes that meet the provisions of 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 how the requirements listed herein will be met.

- (1) Phased Schedule for Improvements. The improvement proposal shall conform to the improvement requirements listed herein within the following phased 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 is 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 per existing Town, County, and State regulations.
 - (j) Method of water supply per 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 following standards set by the State of North Carolina 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 underpinning shall be installed following the manufacturer's specifications.

- (b) A densely planted buffer strip consisting of evergreen trees, at least 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 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 before July 15, 1976, shall be removed from the manufactured home park.~~
- (e) A minimum distance of 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 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 80 feet.
- (i) Two paved parking spaces shall be provided for each manufactured home. Each parking space shall have a length of 18 feet and a width of 9 feet.
- (j) An identification sign stating the name and address of the manufactured home park shall be erected at the main entrance. Such a sign shall not exceed 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.

Sections 9-3086 to 9-3090 reserved.

160D AMENDMENTS

ARTICLE H SIGN REGULATIONS

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 contributes to traffic hazards and endangers public safety;
- (c) To protect existing development and promote high standards of quality in new development by encouraging appropriately designed, placed, and sized signage; and
- (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.

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. Also, a certificate of occupancy for the change in the use of a property shall require compliance with ARTICLE H, Signs.
- (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 to render it in violation of this Chapter.
- (c)

9-3093 General Provisions

The following provisions shall apply to all signs:

- (a) **Construction Standards.** All signs shall be constructed and installed following the applicable provisions of the North Carolina State Building Code.

- (b) Electrical Standards. All illuminated signs shall be installed following 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 conditions. 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 the message, commercial or non-commercial, is not regulated by this Chapter.
- (e) No sign shall be placed to obstruct the clear sight triangle at a street intersection.
- (f) Whenever the ordinance permits a commercial sign, a non-commercial message may be substituted for the commercial message. The right to substitute the non-commercial message does not waive any other requirement imposed the Town's ordinances as to the number, size, type, construction, location, lighting, safety or other regulated attribute.

9-3094 District Classification

For purposes of this Article, zoning districts are classified as follows:

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

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. The Wall sign area is the total 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.

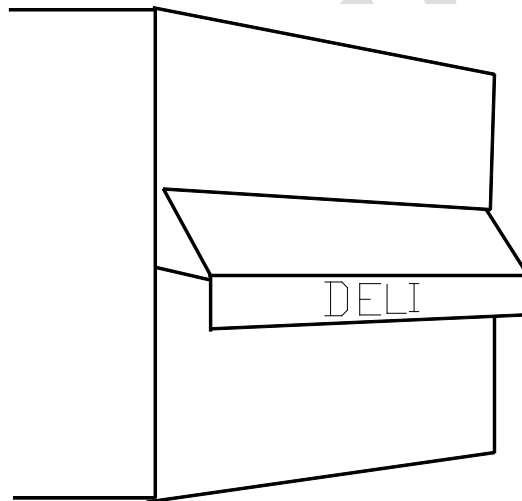


- (2) A hanging sign is also a wall sign. A hanging sign is suspended from a simple bracket attached to a building wall and requires 9 or more feet of vertical clearance from the ground.

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 5 feet from the building wall. It may project up to 5 feet over a sidewalk in a town-maintained right-of-way (or state ROW if permitted). However, in any case, the sign shall not be closer than 3 feet to power or other utility line or the outside edge of street pavement.



- (3) A canopy or awning sign is a sign copy applied directly onto a canopy or awning.



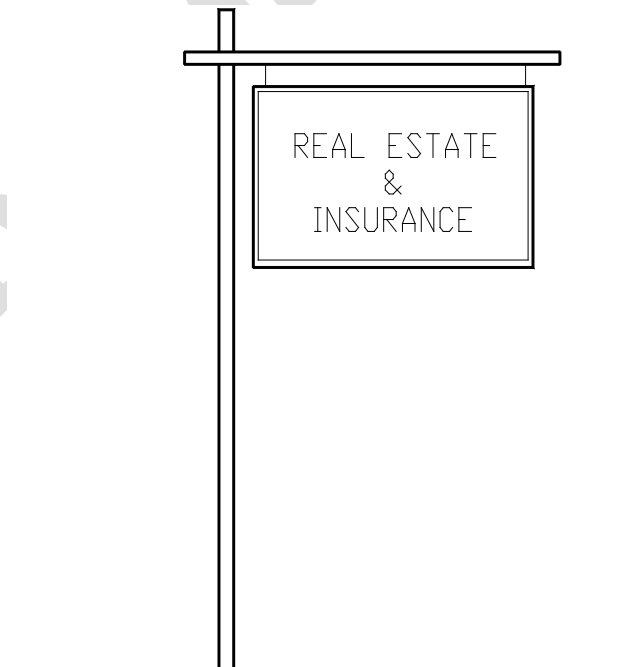
(b) Ground Mounted Signs are defined as follows:

- (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

feet in height and are included in the 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.



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.

9-3097 Permanent On-Premise Signs Requiring a Permit

9-3097.1 On-Premise Signs are allowed, as indicated in the chart below

<p style="text-align: center;">INSTITUTIONAL IN ANY DISTRICT</p> <p style="text-align: center;">Wall Mounted Sign</p> <p>1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 75 square feet</p> <p style="text-align: center;">Ground Mounted Sign (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 50 square feet Maximum Height: 10 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p> <p>For the purpose of this section, institutional facilities include public schools, libraries, and buildings operated by the Town of Valdese.</p>	<p style="text-align: center;">ANY BUILDING TYPE IN A MIXED USE DISTRICT EXCEPT A SINGLE-FAMILY HOUSE (B-1, O-I, FP)</p> <p style="text-align: center;">Wall Mounted Sign</p> <p>For single-story buildings, 1 square foot of sign surface area for every linear foot of building frontage up to a maximum of 50 square feet</p> <p>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</p> <p style="text-align: center;">Ground Mounted Sign</p> <p>Maximum Number: 1 per street front Maximum Area: 32 square feet Maximum Height: 8 feet</p> <p>Setback: Must be setback at least 10 feet from any right-of-way or property line.</p> <p style="text-align: center;">Flag signs Prohibited</p>
<p style="text-align: center;">ANY BUILDING TYPE IN A COMMERCIAL DISTRICT EXCEPT SINGLE- FAMILY HOUSE (B-2, M-1)</p> <p style="text-align: center;">Wall Mounted Sign</p> <p>One (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 one (1) square foot per linear foot of principal building front façade, not to exceed one hundred twenty (120) square feet for any single sign. Each secondary business is allowed Secondary Business Sign (<i>defined in Section 9-3106</i>), up to a maximum area of sixty (60) square feet. Notwithstanding the above, the total area of all wall mounted signs shall not exceed 10% of the applicable wall face area.</p> <p style="text-align: center;">Ground Mounted Sign (Only Monument Style Permitted)</p> <p>Maximum Number: 1 per street front Maximum Area: 50 square feet Maximum Height: 12 feet Setback: Must be setback at least 10 feet from any right-of-way or property line.</p>	<p style="text-align: center;">PLANNED DEVELOPMENT ENTRANCE SIGN</p> <p>Maximum Number: 1 per street front; 2 sign faces may be used with a wall, fence, or other architectural entrance feature</p> <p>Maximum Area: 24 square feet Maximum Height: 8 feet</p> <p>(permitted for all-residential, mixed use, and non-residential projects of 10 acres or more)</p> <p>Limited to name and/or logo</p>

--	--

9-3097.2 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~~ Town of Valdese 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 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 monochrome color display on a solid black background at any one time and 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 such display 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 square feet and subject to the requirements outlined in 9-3097.2. Lottery signs shall not be calculated as part of the allowable display area.

9-3097.3 Permanent Off-Premise Signs

Limited to Non-Commercial Public Service Directional Signs

To direct the public-at-large to non-commercial community facilities of general interest, permanent off-premises directional signs may be erected in addition to signs otherwise permitted in these regulations.

(a) 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 2 directional signs shall be erected for each facility.
- (3) Signs may not exceed 4 square feet in area or 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 11 feet from the edge of any public street, whichever distance from the 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 11 feet from the edge of any public street, whichever distance from the 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 400 feet from any other such sign on the same side of the street and by a distance of 200 feet from any other such sign on the opposite side of a street.

9-3097.4 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 signs identifying the subdivision, development, or park are permitted. The sign face area of each sign shall not exceed 16 square feet.

9-3098 Temporary Signs Requiring a Permit

The following temporary signs shall be allowed subject to the standards below, instead of on-site real estate or construction signs.

Temporary Planned Development Signs, provided:

- a) Only one primary sign and two secondary signs shall be allowed per street in front of the development.
- b) The maximum sign face area of a primary sign shall not exceed 32 square feet; the height of ground-mounted signs shall not exceed 6 feet.
- c) The maximum sign face area of secondary signs shall not exceed 12 square feet; the height of ground-mounted signs shall not exceed 6 feet.

- d) Only one 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 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 years, a new permit must be obtained. However, in no instance shall more than 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 12 square feet in sign area, 6 feet in height, and are removed upon completion of the portion of the project to which the signs are giving direction.
- f) Flag signs shall be allowed in the B-2 General Business and M-1 Manufacturing Districts providing:
 - 1) One (1) sign shall be permitted per property
 - 2) Signs can be erected up to 14 days per calendar year
 - 3) The sign cannot be located inside any public right-of-way.

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 the non-commercial civic, charitable, community, or similar organizations, provided:
 - (1) At least five 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 11 feet from the edge of any public street, whichever distance from the edge of pavement is greater; signs shall respect the sight distance triangle.
 - (3) Signs or banners may be posted up to 14 days before the event and must be removed within 7 days following the event.

- (4) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street and by a distance of 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 the written consent of the owner.
- (b) Real estate signs not exceeding a total of 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.

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 to render it in violation of this Chapter.

- (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.
 - (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 the property upon which the kiosk is to be placed.
 - (4) On-premises directional and instructional signs not exceeding 6 square feet in area, unless such sign is a monument sign, in which case it may not exceed 9 square feet. Maximum height: 4 feet.

- (5) Identification signs not exceeding 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: 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 with a total copy area not exceeding 50 percent 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 use or operation. These shall include but are not limited to, drive-thru window menu boards, signs of automatic teller machines, gas pumps, express mailboxes, 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 16 square feet in area or 6 feet in height
 - (b) All such signs shall be removed within 7 days after the election for which they were made
 - (c) Signs may be erected no earlier than 45 days before the election date.
 - (d) Campaign signs prohibited on town owned property, except when town properties are being used as polling sites. In such case, campaign signs may be placed on the property the day before the election.
 - (e) Campaign signs are permitted within street right of way.
 - (f) Campaign signs along NCDOT maintained roads are subject to G.S. 136-32.
- (10) Real estate signs, other than the temporary signs described in Section 12.8
 - (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 6 square feet. Maximum height: 4 feet.
 - (b) Signs advertising all other uses shall not exceed one square foot for every 5 linear feet of frontage of the advertised property, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.

- (c) Only one sign per street front of the advertised property shall be erected.
 - (d) Properties having a continuous frontage over 850 linear feet may be allowed additional sign so long as such sign is no closer than 850 feet from another real estate sign on the property
 - (e) Signs shall not be illuminated
 - (f) Signs shall be removed within 7 days after the sale is closed or rent or lease transaction is finalized.
- (11) Construction signs, other than Temporary Planned Development Signs, Section 12.8, provided:
- (a) Signs located on single-family lots or duplex, triplex, or quadruplex lots shall not exceed 6 square feet in area. Rider signs not exceeding 2 square feet in area shall be permitted in addition to the 6 square feet. Maximum height: 4 feet.
 - (b) Signs for all other uses shall not exceed one square foot for every 5 linear feet of frontage of property under construction, up to a maximum sign face area of 32 square feet and a maximum height of 6 feet.
 - (c) Signs are confined to the site of construction
 - (d) Only one sign per street front of the property under construction shall be erected.
 - (e) Signs shall not be illuminated.
 - (f) Signs shall be removed within 7 days of the termination of a project.
- (12) Temporary farm product 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 32 square feet in area or 6 feet in height
 - (c) Only one sign shall be erected
 - (d) Signs shall be removed within 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 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 32 square feet in area or 6 feet in height
 - (d) Signs shall be erected no sooner than 14 days before and removed 7 days after the event
- (14) Temporary banners in the commercial and mixed-use district, provided:
- (a) Only one 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 2 weeks.
 - (e) No more than 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 any ~~abutting~~ adjoining property in a residential or mixed-use district.
 - (b) No sign shall extend above the top of the enclosing fence.
- (16) Open/Closed Signs
- (a) Illuminated or non-illuminated
 - (b) Shall not exceed 2 square feet in surface area.

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 of Valdese Planning Board.

9-3101.1 Planned Development Flexibility Option
--

- (a) To provide 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. 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, 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 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 12 feet.
 - (e) Multi-information directional signs are no greater than 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 25% of the sign face area of a sign.

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 or the North Carolina Department of Transportation as outlined in G.S. 136-32* 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 that has ceased operation for one year or more. Obsolete signs shall be removed;
- (i) Signs which use a series of two 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 do 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 the wall, except for perimeter down-lighting that is shielded to illuminate open sales areas but no land outside those areas;
 - (m) Illuminated signs in any residential district, except as provided in Section 9-3097.2(a); and
 - (n) Electronic Message Signs, unless expressly permitted by the Chapter.

9-3103 Application and Issuance of Sign Permits
--

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 Chapter, whichever is applicable; and
- (g) Other information as the Zoning Enforcement Officer may require determining full compliance with this and other applicable codes.

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 following all the requirements of this Chapter and other applicable codes, a permit will be issued. Any permit issued under this section shall automatically become null and void unless the work for which it was issued has visibly commenced within 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.

9-3103.3 Fees

To obtain a sign permit, all fees, under the requirements of the permitting agency, shall be paid.

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.

9-3104 Unlawful Cutting of Trees or Shrubs

No person may, to increase or enhance 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 under 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 under 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.

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 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 nonconformity (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 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 180 days, that billboard shall be deemed abandoned and shall, within 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.

Sections 9-31076 to 9-3110 reserved

**ARTICLE I
PLANNED UNIT DEVELOPMENTS**

9-3111 Planned Unit Development – Residential (PUD-R)

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 Chapter. 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 the development of planned unit developments.

The Town Council may approve this form of development in the districts that allow it as a ~~conditional~~ special use if the conditions specified in this article are met.

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 Chapter. Deviations from said standards may be approved provided they are stated as part of the PUD-R Application Requirements.

- (4) A minimum of 10 percent of the land area for the PUD-R shall be a 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 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~~ consider 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 a 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 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 of Valdese Town Council.
- (9) 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. Also, 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~~ Special Use Permit approved by the Town Council. Modification of the development plan may be made by the Town Council after its initial approval upon application by the owner of the property.
- (11) Following approval by the Town Council of a PUD-R ~~Conditional~~ Special 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 Chapter provided that the overall average lot size and density of the entire PUD-R meet Zoning requirements and the proposed lot sizes are shown in the PUD-R application.

The following are the minimum building setbacks:

<i>Lot Size</i>	<i>Setbacks from ROW and Parcel Line</i>
$\geq 8,000$ Sq. Feet	Front: 25' Side: 10' (15' for side abutting <u>adjoining</u> a street ROW) Rear: 25'
$< 8,000$ Sq. Feet	Front: 25' Side: 10' (15' for side abutting <u>adjoining</u> a street ROW) Rear: 20'

- (c) Application requirements: An application for a ~~Conditional~~ Special Use Permit to allow a PUD-R shall be accompanied by schematic plans showing the information listed below. Also, the Town Council may require additional information necessary to ensure

compliance with the provisions of this Chapter. For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.

- (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 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 Chapter (Section 9-3097);
- (14) The location and size of all non-residential structures;
- (15) If approved, before 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.

Should the Planning Board deny the application, the applicant may appeal to the Town of Valdese Town Council by filing a written notice of appeal within 30 days from receipt of the Planning Board's denial of the application.

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~~ special use, provided that the conditions specified in this article are met.

9-3112.1 Permitted Uses and Requirements

- (a) Uses permitted within the PUD-B:
 - (1) Uses permitted within the zoning district for which the project site is located.
- (b) Permitted building and lot types:
 - (1) Building and lot types permitted within the zoning district for which the project site is located.
- (c) Permitted accessory structures and uses:
 - (1) 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 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.
- (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~~ Special Use Permit approved by the Town Council. Modification of the development plan may be made by the Town Council after their initial approval upon application by the owner of the property.
- (7) Following approval by the Town Council of a PUD-B ~~Conditional~~ Special 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~~ Special Use Permit to allow a PUD-B shall be accompanied by schematic plans showing the information listed below. Also, the Town Council may require additional information necessary to ensure compliance with the provisions of this Chapter. For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.
 - (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 schedule and staging, if any, for the construction of the project.

Sections 9-3113 through 9-3115 reserved
--

ARTICLE J
ADMINISTRATION, ENFORCEMENT, AND PENALTIES

9-3116 Zoning Enforcement Officer

- (a) This Chapter shall be administrated and enforced by the Zoning Enforcement Officer who shall be appointed by the Town Manager, and is hereby empowered:
- (1) 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.
 - (2) To collect the fees set forth herein for a zoning permit, variances, appeals, rezoning, ~~conditional~~ special use permits, and subdivisions.
 - (3) To make and keep all records necessary and appropriate to the office, including a record of the issuance and denial of all zoning permits and receipt of complaints of violation of this Chapter and action taken to the same.
 - (4) To inspect any building and/or land to determine whether any violations of this Chapter have been committed or exist.
 - (5) 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 an injunction, mandamus, or other necessary action.
 - (6) To keep the Board of Adjustment advised of all matters other than routine duties on the enforcement of this Chapter and to transmit all applications and records on appeals, variances, or requests for ~~Conditional~~ Special Use permit approval.
 - (7) *No Zoning Enforcement Officer shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable*

financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town of Valdese to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town of Valdese.

9-3117 Zoning Permit Required

Within the corporate limits of the Town of Valdese no building, sign, or other structure shall be erected, moved, added to, or structurally altered before a zoning permit has been issued by the Valdese Planning Department of the Town of Valdese.

9-3118 Application for a Zoning Permit

- (a) Each application for a zoning permit shall be made in person by the landowner or his/her representative or a person holding a valid option, lease, or contract to purchase and accompanied by a permit fee, set by the Town Council. The landowner, ~~or~~ representative or authorized person shall show or provide 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 about 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~~ if the work authorized by it *has not substantially* commenced within *twelve (12)* months of its date of issue or if the work authorized by it is suspended, *stopped*, or *is* abandoned.
- (c) Unless otherwise provided by law, zoning permits run with the land (9-3008).
- (d) For the purposes of this ordinance, a project is considered to have not substantially commenced unless either one of the following has occurred:
- (1) The development has installed substantial on-site infrastructure, such as but not limited to the installation of a road, water line, sewer line, or stormwater management pond; or
 - (2) The development has received and maintained a valid building permit for the construction and approval of a building foundation.

9-3119 <u>Permit Choice</u>

- (a) If a development permit applicant submits a permit application for any type of development and an ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application.
- (b) If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or

ordinance prior to acting on the development permit.

- (c) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the Town for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.
- (d) Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.
- (e) For purposes of this subsection, erosion and sedimentation control permit or a sign permit is not an initial development permit.

9-3120 Violations and Penalties

When the Zoning Enforcement Officer determines work or any activity has been undertaken in violation of the Zoning Ordinance, Subdivision Ordinance, or other local development regulations, a Notice of Violation (NOV) may be issued. Such NOV shall be delivered to the landowner, the person undertaking the work or activity, or occupant of the property by personal delivery, electronic delivery, or first class mail. The Notice of Violation may also be posted on the property. The Zoning Enforcement Officer shall certify and retain a copy on file that notice was provided. A Notice of Violation may be appealed to the Board of Adjustment.

If the work or activity violates the Zoning and Subdivision Ordinance or any other local development regulation, in a manner that endangers life or property, the Zoning Enforcement Officer or staff shall order the work or activity that is in violation stopped. The stop order shall be issued to the violator in writing, specifying the work or activity to cease, and the condition(s) to resume. A copy of the Stop Order shall also be delivered to the landowner, the person undertaking the work or activity, or occupant of the property by personal delivery, electronic delivery, or first class mail. No further work or activity shall take place in violation of a stop-work order pending a ruling on the appeal.

(a) Violations of this Chapter are subject to the following penalties:

- (1) 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.
- (2) In addition to the penalty in subsection 9-3120.1 above, a violation of this Chapter shall also be a civil offense and shall subject the offender to a civil penalty 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 hours from the time of issuance of the written citation.
- (3) Each day's continuing violation shall be a separate and distinct offense.
- (4) In addition to the penalties imposed under subsection 9-3120.1 and 9-3120.2 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.
- (5) This chapter may be enforced by anyone, all, or a combination of the remedies authorized herein.

9-3121 Remedies

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used or developed in violation of this Chapter or of any development regulation, 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 an injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

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, registered mail, or electronic delivery the owner or lessee thereof to alter such sign to comply with this Chapter and to secure the necessary permit therefor 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. If 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 any case, within ten (10) days secure it in a manner approved by the Zoning Enforcement Officer.

Sections 9-3122 through 9-3125 reserved
--

160D AMENDMENTS

ARTICLE K PLANNING BOARD

9-3126 Establishment of the Planning Board

A Planning Board is hereby established as provided in ~~Section 160A-361~~ Chapter 160D-301 of the General Statutes of North Carolina. Said Board shall consist of five regular (5) members and two (2) alternate members appointed by the Town Council, for overlapping terms of three (3) years. The 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 regular (2) members, and one alternate member for a term of two (2) years, and two regular (2) members for a term of one (1) year. Each Planning Board Member shall take an oath of office before starting his or her duties (G.S. 160D-309).

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.

9-3127 Proceedings and Duties of the Planning Board

The Planning Board shall elect a chair and a vice-chair 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~~ following the provisions of ~~Article 19,~~ Chapter ~~160A~~ 160D of the General Statutes of North Carolina. Meetings of the Planning Board shall be held once a month or at the call of the Chair. The Planning Board shall keep minutes of its proceedings. All meetings of the Planning Board shall be open to the public.

(a) It shall be the duty of the planning board, in general:

- (1) To prepare, review, maintain, monitor, and periodically update and recommend to Town Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
- (2) To facilitate and coordinate citizen engagement and participation in the planning process.
- (3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- (4) To advise the Town Council concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
- (5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.
- (6) To provide a preliminary forum for review of quasi-judicial decisions provided that no part of the forum or recommendation may be used as a basis for the deciding board.
- (7) To perform any other related duties that the governing board may direct.

Sections 9-3128 Conflicts of Interest
--

Members of the Town of Valdese Planning Board shall not vote on any decision regarding a development regulation adopted where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the planning board member. An appointed board member shall not vote on any zoning

amendment if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.

If an objection is raised to a board member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

Sections 9-3128 through 9-3130 reserved

ARTICLE L BOARD OF ADJUSTMENT

9-3131 Establishment of the Board of Adjustment

A Board of Adjustment is hereby established as provided in ~~Section 160A-388~~ Chapter 160D-302 of the General Statutes of North Carolina. The Board of Adjustment shall hear and decide quasi-judicial zoning decisions. The Board shall follow quasi-judicial procedures as specified in G.S. 160D-406 when making a decision. The Planning Board shall function as the Board of Adjustment as provided in ~~Section 160A-388~~ Chapter 160D-302 of the General Statutes of North Carolina.

Pursuant to G.S. 160D-406(k) a 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.

9-3132 Jurisdiction and Decision of the Board of Adjustment

The concurring vote of four-fifths 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 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.

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, before the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

Per G.S. Chapter 160D-109(d) all ~~no~~ members of the Board of Adjustment shall be subject to the Conflict of Interest provisions in Section 9-3128.

9-3133 Proceedings of the Board of Adjustment

The Board of Adjustment shall elect a chair and a vice-chair 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. Each Board of Adjustment member shall take an oath of office before starting his or her duties. (G.S. 160-309).

The Board shall adopt rules of procedure in accordance with the provisions of this Chapter and Chapter 160D-406 Quasi-judicial Procedure of the General Statutes of North Carolina.

Quasi-judicial procedure.

(a) Process Required. – The Zoning Board of Adjustment Board shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decision.

(b) Notice of Hearing. - Notice of evidentiary hearings conducted pursuant to this Chapter 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 adjoining the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the Town of Valdese 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 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the Town of Valdese 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. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) Administrative Materials. - The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) Presentation of Evidence. - The applicant, the Town of Valdese, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) Appearance of Official New Issues. - The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town of Valdese, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town of Valdese would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) Oaths. - The chair of the board or any member acting as chair and the clerk to the board is 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 determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. - The board making a quasi-judicial decision under this Chapter 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, the applicant, the Town of Valdese, and any person with standing under G.S. 160D-1402(c) 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 immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board 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.

(h) Appeals in Nature of Certiorari. - When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

(i) Voting. - The concurring vote of four-fifths of the board 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 under G.S. 160D-109(d) 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.

(j) Decisions. - The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board 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. The board shall have all the powers of the official who made the decision. 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, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and 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 as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and 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 to the Town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(k) Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

Meetings of the Board shall be held once a month or at the call of the Chair. The Board of Adjustment shall keep minutes of its proceedings. All meetings of the Board shall be open to the public.

~~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 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 the issuance of a subpoena, persons with standing under G.S. Chapter 160A-393(d) may make a written request to the Chair explaining why 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.~~

9-3134 Appeals, Hearings and Notice

~~The Board of Adjustment shall hear and decide appeals from the 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 Chapter pursuant to all of the following:~~

- ~~(1) Any person who has standing under NCGS, Chapter 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 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 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 with standing 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 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 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 a Chapter 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 are 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, a stay would seriously interfere with the enforcement of the Chapter. 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 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 the property is consistent with the Chapter 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.~~

~~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 10 days, but not more than 25 days, prior to the date of the hearing. Within that same 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.~~

9-313~~5~~4 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 Adjustment or by a court of record on application, on notice to the Zoning Enforcement Officer, and on due cause shown.~~

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board

Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or the Town of Valdese may request and the board may grant a stay of a final decision of development approval applications, including zoning permits affected by the issue being appealed.

9-313~~6~~5 Fees for Variances, Special Use Permits, and Appeals

A fee, set by the Valdese Town Council through the adoption of a Fee Schedule, shall be paid to the Town of Valdese, North Carolina for each application for a variance, ~~conditional~~ special use permit, or appeal to cover the necessary administrative costs and advertising.

9-313~~7~~6 Powers and Duties of the Board of Adjustment

- (a) The Board of Adjustment shall have the following powers and duties:
 - (1) The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation adopted under Chapter 160D.

- (2) Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in the enforcement of this Chapter.

<u>Sections 9-3136.1 Variances</u>

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection

Sections 9-31387 Conflicts of Interest Powers and Duties of the Board of Adjustment
--

Members of the Board of Adjustments shall not vote on any appeal or variance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any appeal or variance if the landowner of the property or the applicant is a person with whom the member has a close familial, business, or other associational relationship.

Quasi-Judicial Decisions. – A member of the Board of Adjustment exercising quasi-judicial functions according to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible violations of the due process include, but are not limited to, a member having a fixed opinion before hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or financial interest in the outcome of the matter.

Resolution of Objection. – If an objection is raised to a board member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

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.

Section 9-31~~40~~39 Reserved

160D AMENDMENTS

ARTICLE M AMENDMENTS

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:

- (1) 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.
- (2) *Downsizing. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town of Valdese. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:*
 - (a) *By decreasing the development density of the land to be less dense than was allowed under its previous usage.*
 - (b) *By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.*
- (~~2~~3) 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~~ before the meeting at which the petition is to be considered.
- (~~3~~4) Fee. A fee, set by the Town Council, shall be paid to the Town Clerk of the Town, North Carolina, for each petition for an amendment to cover the costs of advertising and other administrative expenses involved.

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 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 recommendation to Town Council shall include a written statement that evaluates whether the amendment is consistent with the Town of Valdese's Land Use Action Plan and any other adopted plan that exist and is applicable.

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.

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~~ Under NCG.S. ~~160A-364~~ 160D-601 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~~ before the hearing. The first notice shall appear in the newspaper ~~at least~~ not less than ten (10) days ~~but not or~~ more than twenty-five (25) days ~~prior to~~ before the scheduled date of the hearing. In computing, this notice period, the day of publication is not to count but the day of the hearing shall be included.

- (b) Mail Notice Requirements. ~~In accordance with~~ Under NCG.S. ~~160A-384 160D-602~~ 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~~ adjoining, even if separated by a street, railroad, or other transportation corridors, shall be mailed a notice of the proposed reclassification and a notice of the public hearing required in Section 9-3144.1A. 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.
- (c) ~~In accordance with~~ Under NCG.S. ~~160A-384 160D-602~~(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.
- (d) Substitute Notice.
- (1) ~~In accordance with~~ Under NCG.S. ~~160A-384 160D-602(b)(3), (4) and (5)~~ individual mailed notices may be waived instead of a substitute notice if the Zoning Map amendment ~~meets at least one of the following criteria: (a) the zoning classification 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 the Zoning Ordinance 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 NCGS 143-214.5~~
- (2) ~~Notice requirements for amendments meeting any of the tree criteria of Section 9-3144.3 (a) above are as follows:~~
- ~~(a) Notice of public hearing shall be published in a newspaper of general circulation in the Town of Valdese at least once each week for two (2)~~

~~consecutive weeks prior to the hearing. The public hearing 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;~~ shall be published following G.S. 160D-60, provided the advertisement is no less than one-half a page;

(~~b~~e) The Town must notify by first-class mail any property owner who resides 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. Absent evidence to the contrary, the Town of Valdese may rely on the county tax records to determine who is a landowner.

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~~ Before 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 (~~NCG.S. 160A-383~~ 160D-605).

If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.

A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

Additional Reasonableness Statement for Rezoning – When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the

proposed rezoning shall be approved by the Town Council. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action is taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S.160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

Single Statement Permissible. – The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

Per G.S. 160D-109, Town Council members shall not vote on any matter being considered where there is a likelihood of a direct, substantial, and readily identifiable financial impact on the member. Also, a council member shall not vote on any amendment if the landowner of the rezoning petition or the applicant for a text amendment is a person with whom the council member has a close family, business, or other associational relationship. If an objection is raised to a board member's participation at or before the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the council shall by majority vote rule on the objection.

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.

9-3146 ~~Appeals~~ Protest Petition

Appeals of administrative decisions under 160D-405 shall be made to the Board of Adjustment. Appeals of decisions according to erosion and sedimentation control regulations, stormwater control, or housing code provisions shall not be made to the Board of Adjustment.

~~(a) — Protest Petitions:~~

~~(1) — 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 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 100-foot buffer area as long as that street right of way is 100 feet or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 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 Valdese Town Council.~~

~~(2) — Petition Requirements. No protest petition against any change in or amendment to the Zoning Ordinance 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.~~

~~(3) 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.~~

~~(4) Voting Calculations. In accordance with NCGS 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.~~

(a) The property owners or signers have 30 days from receipt of the written notice of the determination to file an appeal. The property owner or signer shall receive the written

notice of determination no later than the third business day following the deposit with the United States Postal Service.

- (b) Staff shall transmit (written or electronic) to the Board all documents and exhibits that constitute the record for the matter being considered.
- (c) An appeal of enforcement actions stays all enforcement actions, including fines, during the appeal process
- (d) The Board of Adjustment shall meet to hear the appeal within 15 days following the filing of the appeal.
- (e) The appeal shall not apply to any amendment, which initially zones a property added to the territorial coverage because of annexation or other means.

9-3146.1 Appeals To Superior Court

Pursuant to G.S. 160D-1401, appeals against any change in or amendment to the Zoning Ordinance or Zoning Map may be filed in Superior Court.
Statutes.

9-30147 Conditional-Special Use Permits

~~Conditional-Special~~ Uses. The Town Council shall grant in particular cases and subject to the principles, procedures, conditions, and safeguards, permits for Conditional-Special Uses in regulations and set forth as ~~conditional-special~~ uses under the various use districts. The Town of Valdese Town Council shall not grant a ~~Conditional-Special~~ Use Permit unless and until:

- (1) A written application for a ~~Conditional-Special~~ Use Permit is submitted to the ~~Zoning Enforcement Officer~~ Planning Director indicating the section of this Chapter under which the ~~Conditional-Special~~ Use Permit is sought. For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.

- ~~(2) The Planning Board has reviewed the application and made a recommendation to the Town Council. If the Planning Board fails to submit a recommendation within 30 days of first consideration of the application, a recommendation of approval from the Planning Board shall be assumed.~~
- ~~(32) A public-Public hearings shall be conducted using the procedures described in Section 9-3144. is held. Notice of hearings conducted under 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 10 days, but not more than 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.~~
- (3) The Town Council finds that in the particular case in question the use for which the ~~Conditional~~ Special Use Permit is sought will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use, and will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. In granting such a permit, the Town Council may designate such conditions in connection therewith as will, in its opinion in written form for the applicant's or landowner's consent to assure that the proposed use will conform to the requirements and spirit of this Chapter.
- ~~(45) Town Council does not have the authority to impose conditions and safeguards for which council does not authorize under the statute to regulate or which courts have held to be unenforceable.~~
- ~~(56) If at any time after a ~~Conditional~~ Special Use Permit has been issued, the Town Council finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a ~~Conditional~~ Special Use Permit, the permit shall be terminated and the operation of such a use~~

discontinued. If a ~~Conditional~~ Special Use Permit is terminated for any reason, it may be reinstated only after a public hearing is held.

When deciding ~~Conditional~~ Special Use Permits, the Town Council shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the Council to issue such permits. For the purposes of this section, 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. Every such decision of the Council shall be subject to review of the superior court like certiorari consistent with G.S. ~~160-388~~ 160D-406.

<u>Sections 9-3148 Moratoria</u>

Town Council may adopt temporary moratoria on any development approval required by law, except to develop and adopt new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant the imposition of the moratorium and may not exceed the period necessary to correct, modify, or resolve such conditions.

Except in cases of an imminent and substantial threat to public health or safety, before adopting a development regulation imposing a 60 day or shorter moratorium, Town Council shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A moratorium 61 days or longer, or any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-601.

Absent of an imminent threat to public health or safety, a moratorium does not apply to any project for which a valid building permit, to any project for which a special use permit application has been accepted as complete, to development outlined in an approved site-specific vesting plan, to development for which substantial expenditures have already been made in good-faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by Town Council before the call for a hearing to adopt the moratorium.

Any preliminary subdivision plat accepted for review by the Town of Valdese Town Council before the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for development approval has been submitted before the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.

Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:

- (1) A statement of the problems or conditions necessitating the moratorium and what courses of action, an alternative to a moratorium, were considered by the Town of Valdese and why those alternative courses of action were not deemed adequate.
- (2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to the imposition of the moratorium.
- (3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to the imposition of the moratorium.
- (4) A statement of the actions, and the schedule for those actions, proposed to be taken by the Town of Valdese during the duration of the moratorium to address the problems or conditions leading to the imposition of the moratorium.

No moratorium may be subsequently renewed or extended for any additional period unless the Town of Valdese has taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to the imposition of the moratorium and unless new facts and conditions warrant an extension.

Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings outlined in subdivisions (1) through (4) of subsection (d) of this section, including what new facts or conditions warrant the extension.

Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the

enforcement of the moratorium. Actions brought under this section shall be scheduled for an expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In such actions, the Town of Valdese has the burden of showing compliance with the procedural requirements of this subsection.

Sections 9-3149 through 9-3150 reserved.
--

**ARTICLE N
WATERSHED PROTECTION**

9-3151 Authority and Enactment

The Town of Valdese is authorized to exercise the powers conferred by Article 8 of Chapter 160A of the General Statutes to adopt and enforce local environmental ordinances to the extent necessary to comply with state and federal law, rules, regulations or permits consistent with the interpretations and directions of the State or federal agency. Environmental regulations are not subject to the variance provisions of G.S. 160D-705 unless that is specifically authorized by the local ordinance.

9-3152 Jurisdictions

The provisions of this Chapter shall apply within the overlay zones designated as a Public Water Supply Watershed as defined and established on the "Official Zoning Map of the Town 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.

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 is not subject to the requirements of this Article.
- (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 the build-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.
- (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).

9-3154 Cluster or Planned Unit Development

- (a) Cluster or Planned Unit Development is allowed in all Watershed Areas under the following conditions:
 - (1) Development activities shall comply with the respective requirements of Article D and Article I of this Chapter.
 - (2) All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize the concentrated stormwater flow.
 - (3) 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 homeowner's association for management; to ~~a local government~~ the Town of Valdese 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.

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 (7.5 minutes) scale topographic

maps or as determined by local studies. Artificial stream bank 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.

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. 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.
 - (3) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Chapter 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 Chapter. 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 describe each project receiving a variance and the reasons for granting the variance.

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 the 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 because 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 the 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 an agent, or by an attorney.

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 of Valdese Town Council. Terms for members of the Watershed Review Board shall coincide with the membership terms for the Town Council.

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 Zoning 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 offer 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 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 Town of Valdese ~~local government~~ and entity shall have a reasonable comment period before 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.

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 30 days from the date of the decision. The decisions by the Superior Court will be in the manner of certiorari.

9-3161 High-Density Development Standards

- (a) The Town Council may approve high-density development proposals consistent with the following standards:
 - (1) WS-IV-Critical Areas – Where new development requires a Sedimentation/Erosion Control Plan and exceeds either 2 dwelling units per acre, or 24% built-upon area, **engineered stormwater controls** shall be used to control runoff from the first inch of rainfall and development shall not exceed 50% built-upon area.

- (2) WS-IV-Protected Areas - Where new development requires a Sedimentation/Erosion Control Plan and exceeds either 2 dwelling units per acre, or 24% built-upon area (or 3 dwelling units per acre or 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 70% built-upon area.

<p align="center">9-3162 High-Density Development Permit Application</p>

- (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 another 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 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) Before 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 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 offering testimony and recommendations concerning the application. The Board shall also allow 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) 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 outlined in the Watershed Protection Chapter and the following conditions are met:
 - (1) The use will not endanger the public health or safety if located were proposed and developed according to the plan as submitted and approved;
 - (2) The use minimizes impacts to water quality through the Best Management Practices, cluster development, and/or maximum setbacks from perennial waters;
 - (3) The use is vital to the continued growth and economic development of the Town of Valdese.
 - (4) The use is consistent with the officially adopted land development plans for the Town.

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 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.

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(G) 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 by the following design criteria:
- (1) Wet detention ponds shall be designed to remove 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 feet in length. The slope and width of the vegetative filter shall be determined to provide a non-erosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 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) 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).
 - (d) 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 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.
 - (d) 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.

<p>9-3164 Posting of Financial Security Required</p>

- (a) All new stormwater control structures shall be conditioned on the posting of adequate financial assurance for maintenance, reconstruction, or repairs necessary for the 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 another 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 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 another 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 141(G), 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 following 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.
1. Default under the cash security. Upon default of the owning entity to maintain repair, and, if necessary, reconstruct the stormwater control structure following 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.

9-3165 Maintenance and Upkeep

- (a) An operation and maintenance plan or manual shall be provided by the developer for each stormwater 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 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 before 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 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 before 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 of 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.

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.
- (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.

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 of Valdese Town Council at its next regularly scheduled meeting.
 - (1) If the Town Council approves 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 are made and documents corrected and submitted to the Town.
- (c) No sooner than one year after the 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 year of the 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.

9-3168 Remedies

- (a) If any subdivision, development, and/or land use is found to violate this Article, the Town may, in addition to all other remedies available either in law or in equity, institute a civil penalty of \$50, institute actions or proceedings to restrain, correct, or abate the violations; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, N.C. Environmental Management Commission may assess civil penalties under G.S. 143 - 215.6(a). 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 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.

9-3169 Sanctions

Besides, to the remedies described in Section 9-3168 of this Chapter, and consistent with G.S. ~~160A-175~~ Article 4, Chapter 160D, the Town of Valdese Town Council may seek enforcement of this Chapter by assessing a civil penalty to be recovered by the Town in a civil action like debt if the offender does not pay the penalty in a prescribed period 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 abatements like a mechanic's and material man's lien. The defendant may secure the 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. 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.

9-3170 Criminal Penalties

Any person violating any provisions of this Article shall be guilty of a misdemeanor and, upon conviction, shall be punished under ~~NC~~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.

Sections 9-3171 through 9-3180 reserved

ARTICLE O LEGAL STATUS PROVISIONS

9-3181 Conflict with Other Regulations

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 a 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 ordinance~~ Chapter 160D shall govern.

Whenever the provisions of any other statute require more restrictive standards than are required by this Chapter, the provisions of such statute shall govern.

9-3182 Repeal of Existing Zoning Chapter

All zoning Chapters 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 Chapter 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 because of the adoption of this chapter but shall be prosecuted to their finality the same as if this Chapter had not been adopted; any violations of existing zoning Chapters, 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.

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.

~~9-3184 Enactment~~

~~The Mayor and Council of Town of Valdese, North Carolina, do hereby ordain and enact into law these Articles and Sections on this _____ day of _____, 2004.~~

Mayor _____ Clerk

Approved as To Form: _____

Town Attorney

Sections 9-318~~5~~4 through 9-3194 reserved.

160D AMENDMENTS

ARTICLE P
TELECOMMUNICATIONS TOWER CHAPTER

9-3195 Definitions

- (a) As used in this Chapter, the following terms shall have the meanings indicated:
- (1) 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.
 - (2) Collocation shall mean the placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, city utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, city utility poles, or wireless support structures.
 - (3) Eligible facilities request means a request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.
 - (~~24~~) Pre-existing towers and antennas shall mean any tower or antenna on which a permit has been properly issued before the effective date of this Chapter.
 - (5) Small wireless facility means a wireless facility that meets the following qualifications:
 - a. Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.

b. All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, and cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

(6) Substantial modification means the mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. The burden is on the Town to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

- a. Increasing the existing vertical height of the structure by the greater of (i) more than ten percent (10%) or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- b. Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- c. Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

(7) Telecommunications Tower shall mean any structure that is designed and constructed primarily to support one 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 residential, non-commercial individual use, such as television antennas, satellite dishes, or amateur radio antennas.

9-3196 General Guidelines and Requirements

(a) General Guidelines and Requirements:

- (1) Purpose; Goals. The purpose of this Chapter is to establish general guidelines for the sighting of towers and antennas. The goals of this Chapter 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.
- (2) 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.

9-3197 Administrative Approved Uses

- (a) The following uses may be approved by the Zoning Administrator after conducting an administrative review:

- (1) 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 or increase the height of the structure by more than 10%, whichever is greater;
- (2) 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 or increase the height of the structure by more than 10%, whichever is greater;
- (3) 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 or increase the height of the structure by more than 10%, whichever is greater;
- (4) Locating any alternative tower structure in any zoning district if, in the judgment of the Zoning Administrator, it conforms with the goals outlined in Section 9-3196.1 of this Chapter;
- (5) Replacing an existing tower that adds no more than 20 feet to the overall height of the existing structure.
- (6) 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 and fifty (750) feet of the Interstate 40 right-of-way and provided that the following requirements are also met:
 - (a) Evidence must be provided which establishes that the communications tower is structurally designed to support at least one additional user

and the application includes a statement that the owner of the tower is willing to permit other users (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.

- (b) 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 to comply with the requirements of this subsection. Buffering shall be required as stated in Section 9-3046.
- (c) 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 feet in height. The tower's guy anchors may be screened or fenced separately to comply with the requirements of this subsection.
- (d) No outside storage shall be allowed on any telecommunication facility site.
- (e) 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.
- (f) 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 the surrounding residential property.

- (g) The minimum lot size requirement shall be under the zoning district where the tower is proposed to be located or the setback requirements of subsection K, whichever is greater.
- (h) The color of the tower shall be neutral, except to the extent required by Federal law, to minimize its visual impact.
- (i) 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.
- (j) No commercial advertising shall be allowed on the facility's site.
- (k) Setback of the base of the tower from all adjacent property lines shall be one foot for each foot in height. To encourage shared use of towers, applications for towers that will operate with more than one user immediately upon completion may have a 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 60 % reduction in the required setbacks. In no case shall the setback be less than those required for the underlying zoning district. To encourage the location of towers in existing forested areas with a minimum depth of sixty-five (65) feet, the tower may have a 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 construction of the structure will cause the tower to crumble inward so that in the event of collapse no damage to structures on adjacent zoning lots will result.
- (l) Notice shall be provided to the Zoning Administrator when the tower is placed out of service. Towers that are not used for six (6) months or more shall be removed by the owner within 120 days of receipt of notification to that effect.

- (m) Monopole construction for all new telecommunication towers shall be required. Stealth technology and application are encouraged to be consistent with the surrounding area.
 - (n) A telecommunications tower shall not exceed the maximum height of one hundred ninety-nine (199) feet above ground level.
- (7) Locating a telecommunication tower on Town-owned property in any zoning district anywhere in the Town Limits as a principal or accessory use if the Town Manager approves this use of Town property and, ~~in the judgment of~~ the Zoning Administrator, determines that it conforms to goals outlined in Section 9-3196.1 of this Chapter and meets all the requirements of 9-3197(6).
- (8) Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure no more than (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance, whichever is greater.
- (9) Increasing the square footage of the existing equipment compound by up to 2,500 square feet.
- (10) Review a collocation of a small wireless facility consistent with the provisions of G.S. 160D-935 – 938.
- (b) Pursuant to G.S. 160D-934(b), a collocation or eligible facilities request application is deemed complete unless the Town provides notice that the application is incomplete in writing to the applicant within 45 days of submission or within some other mutually agreed upon time frame. The notice shall identify the deficiencies in the application which, if cured, would make the application complete. The Town may deem an application incomplete if there is insufficient evidence provided to show that the proposed collocation or eligible facilities request will comply with federal, State, and local safety requirements. The Town may not deem an application incomplete for any issue not directly related to the actual content of the application and subject matter of the collocation or eligible facilities request. An application is deemed complete on resubmission if the additional materials cure the deficiencies indicated.

- (c) Pursuant to G.S. 160D-934(c), the Town shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Town shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.

SUBDIVISION REGULATIONS

TOWN OF VALDESE

NORTH CAROLINA

WESTERN PIEDMONT COUNCIL OF GOVERNMENTS

Adopted 1984

TOWN OF VALDESE PLANNING DEPARTMENT

Amended 1999
 Amended 2001
 Amended 2008
 Amended 2017
Amended 2021

TABLE OF CONTENTS

	<u>PAGE</u>
ARTICLE A SUBDIVISION ORDINANCE FOR VALDESE, NORTH CAROLINA	1
Section 9-2001. Title	1
Section 9-2002. Authority and Enactment Clause.....	1
Section 9-2003. Jurisdiction	1
Section 9-2004. Purpose	1
Section 9-2005. Services and Permits.....	1
Section 9-2005.1 Prerequisite to Plat Recording.....	2
Section 9-2006. Penalties for Violation	2
Section 9-2007. Severability	2
Section 9-2008. Variances.....	3
Section 9-2009. Registration of Plats.....	3
Section 9-2010. Amendments.....	3
Section 9-2011. Abrogation	4
Section 9-2012. Thoroughfare Plans.....	4
Section 9-2013. School Sites on Land Use Plan	4
Section 9-2014. Zoning and Other Plans.....	4
Section 9-2015. Reserved	4
ARTICLE B DEFINITIONS	5
Section 9-2020. Definitions.....	5
Section 9-2021. Word Interpretation	9
ARTICLE C PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS.....	10

Section 9-2030. Approval Prerequisite to Plat Recordation	10
Section 9-2030.01 Plat Required	10
Section 9-2031. Minor Subdivision Approval Process	10
Section 9-2031.01 Procedure for Review of Minor Subdivision	10
Section 9-2031.02 Review Procedure.....	11
Section 9-2031.03 Approval of Sketch Plat by Subdivision Administrator.....	11
Section 9-2031.04 Dispute of Findings	11
Section 9-2031.05 Disposition of Copies	11
Section 9-2031.06 Final Plat Approval for Minor Subdivisions	12
Section 9-2031.07 Certifications to be Depicted on Plat	12
Section 9-2032. Major Subdivision Approval Process	14
Section 9-2032.01 Sketch Plan for Major Subdivisions	14
Section 9-2033. Preliminary Plat – Submission Review	15
Section 9-2033.01 Information to be Contained or Depicted on the Preliminary and Final Plats.....	17
Section 9-2034. Final Plat Approval Process.....	21
Section 9-2034.01 Improvements Installation	21
Section 9-2034.02 Town Participation and Costs.....	21
Section 9-2034.03 Performance Guarantee.....	21
Section 9-2034.04 Defects Guarantee.....	23
Section 9-2034.05 Final Plat Review.....	23
Section 9-2035. Final Plat.....	23
Section 9-2035.01 Plat Submitted	23
Section 9-2035.02 Size of Plat and Scale	24
Section 9-2035.03 Plat Required	24
Section 9-2035.04 Certifications Required	24
Section 9-2035.05 Contents Required.....	27
Section 9-2036. Review Procedure	27
Section 9-2036.01 Planning Board Review	27
Section 9-2036.02 Town Council Review	27
Section 9-2036.03 Disposition of Copies	28
Section 9-2036.04 Recording of Final Plat.....	28
Section 9-2036.05 Re-subdivision Procedures	28
Section 9-2036.06 Recombination of Land	28

ARTICLE D INSTALLATION OF PERMANENT REFERENCE POINTS AND IMPROVEMENTS30

Section 9-2040. Permanent Reference Points.....	30
---	----

Section 9-2040.01 Public Sites and Open Space	30
Section 9-2040.02 Access to Parks, Schools, Etc.	30
Section 9-2040.03 Restrictions on Land Subject to Flooding	30
Section 9-2041. Design Standards and Required Improvements	31

ARTICLE E	GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN	32
Section 9-2050.	General Requirements	32
Section 9-2050.01	Conformity to Existing Maps and Plans	32
Section 9-2050.02	Continuation of Existing Roads	32
Section 9-2050.03	Access to Adjacent Properties	32
Section 9-2050.04	Private Streets.....	32
Section 9-2050.05	Subdivision Street Disclosure Statement.....	32
Section 9-2050.06	Large Tracts and Parcels	33
Section 9-2050.07	Lots.....	33
Section 9-2050.07.01	Flag Lots.....	33
Section 9-2050.08	Reserved.....	33
Section 9-2050.09	Contour Map.....	33
Section 9-2050.10	Street Names	33
Section 9-2051.	Design Standards.....	33
Section 9-2051.01	Public Schools.....	34
Section 9-3051.02	Blocks	37
Section 9-2052.	Lot Designs	37
Section 9-2052.01	Lots.....	37
Section 9-2052.02	Arrangement.....	37
Section 9-2052.03	Lake Frontage Lots	37
Section 9-2052.04	Area	37
Section 9-2052.05	Width.....	38
Section 9-2052.06	Depth.....	38
Section 9-2052.07	Orientation of Lot Lines	38
Section 9-2052.08	Building Setback Lines.....	38
Section 9-2052.09	Easements.....	38
Section 9-2052.10	Reserved.....	38
Section 9-2052.11	Storm Water Drainage	38
Section 9-2052.12	Water and Sewer Utilities.....	40
Section 9-2052.13	Pedestrian Walkways.....	40
Section 9-2053.	Cluster Development and Planned Unit Development	40
40		
41		

Section 9-2054.01	Street Designs	41
Section 9-2054.01.01	Widths	41
Section 9-2054.01.02	Cul-de-sacs.....	41
Section 9-2054.01.03	Grading	41
Section 9-2054.01.04	Street Grades.....	41
Section 9-2054.02	Street Improvements for Hillside Subdivisions.....	42
Section 9-2054.02.01	Pavement.....	42
Section 9-2054.03	Hillside Lots	42

**SUBDIVISION ORDINANCE
VALDESE, NORTH CAROLINA**

**ARTICLE A
INTRODUCTORY AND LEGAL PROVISIONS**

AN ORDINANCE ESTABLISHING COMPREHENSIVE SUBDIVISION REGULATIONS FOR THE TOWN OF VALDESE, NORTH CAROLINA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF

9-2001 Title

This Chapter shall be known and may be cited as “The Subdivision Ordinance for the Town of Valdese, North Carolina”, and may be referred to as the Subdivision Ordinance.

9-2002 Authority and enactment clause

The Town Council of the Town of Valdese, ~~pursuant~~under the authority conferred by Chapter ~~160A-371 through Section 160A-376~~ 160D of the General Statutes of the State of North Carolina, does hereby ordain and enact into law these Articles and Sections.

9-2003 Jurisdiction

On and after the date of adoption, these regulations contained herein shall govern every subdivision of land submitted for review within the Town of Valdese (hereinafter referred to as the "Town").

9-2004 Purpose

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the Town of Valdese. 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.

9-2005. No Service or Permits until Final Plat Approval

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 not 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 outlined in this chapter have been complied with.

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 before plat recordation. Minor subdivisions, as defined in the chapter, shall be approved by the Subdivision Administrator before plat recordation. Nothing herein compels the approval of any proposed subdivision by the Town Council or the Subdivision Administrator except ~~in accordance with~~ under the provisions of this chapter.

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, the 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 the 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 anyone, all, or a combination of the remedies

authorized herein.

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.

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, considering 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:

1. ~~That special circumstances or conditions are affecting said property such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land;~~ (a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and

2. —

- ~~That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;~~ (b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; 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;~~
;(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship; 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~~
(d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

9-2009 Registration of Plats

Registration of all plats shall be by North Carolina General Statute 47-30.

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 consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 or less than 10 days before the hearing date. In computing the 10 to 25 day period, the date of the first publication shall be counted, but the date of the hearing shall not be counted.

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 under the law.

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.

9-2013 School Sites on Land Use Plan

North Carolina General Statute ~~Chapter 160A-372~~ Chapter 160D-804 provides for the reservation of school sites ~~in accordance with~~ under a comprehensive land-use plan approved by the Town Council. ~~In order~~ For this authorization to become effective, before approving such plans, the 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 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 18 months, the subdivider may treat the land as free of the reservation.

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.

9-2015 Reserved.

ARTICLE B DEFINITIONS

9-2020. Definitions

For 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 a lake or riverfront 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-foot-high wood basket-weave type fence.

- (2) A six-foot-high solid picket type fence with the pickets being placed facing the adjoining property.
 - (3) A six-foot-high chain-link type fence with panel inserts.
 - (4) A six-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-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.~~ Any structure used or intended for supporting or sheltering any use or occupancy.
- (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) TOWN COUNCIL. The words Town Council shall mean 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 a written instrument and is completed with an acceptance.
- (h) DOUBLE FRONTAGE LOT. A continuous (through) lot that 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 of Valdese 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 before 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.
 5. The resulting lots must meet lot dimension requirements of any applicable land use if any.
 6. The use of any lot shall conform to 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 to the newly created lots.
 8. The final plat shall be prepared ~~according to~~ following Section 9-2035 (The Final Plat) of the Town of Valdese Subdivision Regulations and must be approved by *the Town of Valdese'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 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.

- (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 that is adjacent to the street. In the case of lots which ~~abut~~ adjoin a stream, lake, or pond, the lot front is considered to be the part of the lot which ~~abuts~~ adjoins the water.
- (o) MINOR SUBDIVISION. A subdivision of land that meets the following criteria:
 - a. Involving not more than five (5) lots fronting on an existing approved street; and
 - b. Not involving any new street or prospectively requiring any new street for access to the interior property; and
 - c. Not requiring an extension of public sewage or water lines or creation of new drainage easements through lots to serve property at the rear; and
 - d. Not adversely affecting the development of the remainder of the parcel or adjoining property; and
 - e. Creating no new or residual parcels not conforming to the requirements of these regulations.
 - f. All included land must be under the 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 Town of Valdese.
- (q) ORDINANCE. The word Ordinance or Regulation shall mean the Subdivision Ordinance for Town of 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 by 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 of Valdese or the State of North Carolina, and which is not maintained by the Town of Valdese or the State of North Carolina. An entity other than the Town of Valdese, such as property owners, homeowner's 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 are 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 the property free from development for a stated period.
- (z) **SINGLE-TIER LOT.** A lot that 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 to 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 that carry large volumes of traffic at moderate speeds through and within Town of 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 are 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~~ adjoining 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~~ adjoining 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 is 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 or more lots, building sites, or other divisions for 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 zoning exception, building code and fire code regulations:

Exemptions:

- a. 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;
 - b. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
 - c. The public acquisition by purchase of strips of land for the widening or opening of streets;
 - d. 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.
 - e. The division of a tract into parcels following the terms of a probated will or by intestate succession under Chapter 29 of the General Statutes.
- (dd) SUBDIVISION ADMINISTRATOR. The Planning Director for the Town of Valdese, North Carolina, or his designated agent.
- (ee) TOWN COUNCIL. The Town Council of the Town of Valdese.

9-2023. WORD INTERPRETATION

For the purpose of this chapter, certain words shall be interpreted as follows:

- (a) The word “**may**” is permissive.

The words “**shall**” and “**will**” are mandatory.

The present tense includes the future tense and the future tense includes the present tense.

The singular includes the plural and the plural includes the singular.

ARTICLE C
PROCEDURE FOR REVIEW AND
APPROVAL OF SUBDIVISION PLATS

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.

9-2030.01 Plats Required

~~In accordance with~~ Under G.S. ~~160A-372~~ 160D-804, a final plat shall be prepared, approved, and recorded ~~pursuant~~ according 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 displaying such change must be presented to the Subdivision Administrator. Each plat must be accompanied by a fee ~~set forth~~ outlined in the Town's Fee Schedule.

9-2031 Minor Subdivision Approval Process

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 is the landowner or owner as defined in Article B – Definitions. ~~owns, leases, hold 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.~~ The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or a representative to make applications for development approvals.

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, and watershed, historical and archeological sites.

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 the 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.

9-2031.01 Procedure for Review of Minor Subdivisions

A preliminary plat shall not be required for approval for minor subdivisions. ~~Prior to~~ Before 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~~ with 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;
7. The name, if any, of the proposed subdivision;
8. Streets and lots of ~~adjacents~~ adjacent developed or platted properties;
9. The zoning classification of the tract of land and adjacent properties;

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~~ of the proposed minor subdivision and the procedures to be followed in the preparation and submission of the final plat.

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.

9-2031.04 ~~Dispute of Findings.~~

~~If 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.~~

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.

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 ~~9-3033-35~~ ~~9-2035~~, and all certifications and notarizations required in section 9-2031.07 for final plat approval of a minor subdivision.
- .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~~ outlined in G.S. 47-30 as amended and the *Manual of Practice for Land Surveying in North Carolina*. In the event of a conflict between the provisions for plats, subdivision, and mapping requirements ~~set forth~~ outlined in G.S 47-30 as amended and the *Manual*

of *Practice for Land Surveying* in North Carolina, the provisions as outlined 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 shall be black or blue line paper prints. Material and drawing medium for the original shall be ~~in accordance with~~ following 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 a conflict between material and drawing medium for the original as ~~set forth~~ outlined 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 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

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~~ Following 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 surveyed must be 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
<p>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 following G.S. 47-30 as amended.</p> <p>Witness my hand and seal this ____ day of _____ 20__.</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p>_____ Registered Land Surveyor</p> <p>_____ Registration Number</p> </div> <div style="width: 45%; text-align: center;"> <p>Official Seal</p> </div> </div>	

(c) Under North Carolina General Statute 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, the administrator 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 the 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.

9-2032. Major Subdivision Approval Process

The following Sections shall be followed to obtain approval of all major subdivisions.

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 the adjacent properties;

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 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 20 days ~~prior~~ before 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 submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for the 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~~ outlined in the Town's Fee Schedule.
- .4 Preliminary plats shall be of a suitable size for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals 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. For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.
- .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 Town of 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 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~~ special approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 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 copies of the plat to the Town Council with its recommendation.
- .10 If the Planning Board recommends ~~conditional~~ special approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two 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.
- .11 If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit two 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 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~~ recommends disapproval of the preliminary plat, the subdivider may request ~~present~~ the preliminary plat be presented to the Town Council at its next regularly scheduled meeting for consideration. ~~which follows the Planning Board's decision by at least 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 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 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 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 of 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.

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
Title Block Containing <ul style="list-style-type: none"> ▪ 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 	X	X
Name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and the 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
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 the tract to be subdivided and adjoining properties.	X	X
Existing buildings or other structures watercourses, 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
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
<ul style="list-style-type: none"> ▪ The exact location of the flood hazard, floodway, and floodway fringe from the community's FEMA maps ▪ Base flood elevation data for subdivisions that contain at least five (5) lots or fifty acres, whichever is less 	X	X

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 <u>following</u> Section 9-2050.04 and 9-2050.05 of this chapter.		X
Type of street dedication; all streets must be designated "public" or "private." <i>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 before preliminary plat approval.</i> <i>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.</i>	X	X
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 is <u>following</u> 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
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	X
<i>Dedication or reservation for public use to the governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership.</i>		

UTILITY INFORMATION	Preliminary	Final
Location of all utility easements	X	X
If deemed necessary by the Subdivision Administrator, the plans for utility layouts including: Sanitary sewers Storm sewers Other drainage facilities, if any Water distribution lines Natural gas lines Telephone lines Cable or Internet lines Electric lines <u>(Developer is not required as a condition of subdivision approval to bury an existing above ground power line and outside the subdivision)</u> Plans should illustrate connections to existing systems, showing line sizes, the location of fire hydrants, blow-offs, manholes, force mains, and gate valves.	X	X
Plans for individual water supply and sewerage disposal systems, if any	X	X

SITE CALCULATIONS	Preliminary	Final
Acreage in the total tract to be subdivided	X	X
Acreage in parks and recreation areas, and other non-residential uses	X	X
Total number of parcels created	X	X
The acreage of each lot in the subdivision	X	X
Linear feet in streets	X	
The name and location of any property or buildings within	X	X

the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places		
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
A copy of the erosion control plan is submitted to the appropriate authority if such a plan is required.	X	X
A 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.

Section 9-2034 FINAL PLAT APPROVAL PROCESS

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 the installation of the required improvements following the approved preliminary plat and the requirements of this chapter.

Before approval of a final plat, the subdivider shall have completed the installation of the improvements or provided guarantees of such installation, as specified in this chapter.

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, following the plans shown on the approved plat. If the subdivider desires Town participation, a written request should be made to the Town before the installation of any improvements.

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 following the approved preliminary plat and the requirements of this chapter. Before 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 instead of requiring the completion, installation, and dedication of all improvements before final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the 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 "performance Guarantee" in G.S. 160D-804.1:

~~(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 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. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

~~(b)~~(a) Letter of Credit. An irrevocable letter of credit or other instruments 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 Letter of Credit shall be in an amount equal to 125% of the entire cost, as estimated by the subdivider and approved by the Town Council, of installing all required improvements. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

~~(c)~~(b) ~~Cash or equivalent~~ Equivalent security Security. The subdivider shall ~~deposit~~ provide a form of guarantee that provides equivalent security to a surety bond or letter of credit. ~~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 with the Town.~~ ~~The use of any instrument other than cash shall be subject to the approval of the Town Council.~~ The amount of deposit shall be equal to 125% of the cost, as estimated by the subdivider and approved by Town Council, of installing all

required improvements. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

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:

- i) 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
- ii) 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 Duration. - The Performance Guarantee shall initially be one year unless the developer determines that the scope of work for the required improvement necessitates a longer duration.

.4 Extension. – If the current performance guarantee is likely to expire before completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued if the developer has demonstrated reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee. Such extension shall only be for a duration necessary to complete. If a new

performance guarantee is issued, the amount shall not exceed 125% of the total cost of all incomplete improvements.

.5 Release. 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 30 days after receiving the Planning Board recommendation, the Town Council shall approve said improvements. If the Town Council approves said improvements, and then it shall immediately release any security posted.

- .3.6** Upon default, meaning failure on the part of the subdivider to complete the required improvements ~~in a timely manner~~ on time 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.

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 one year following the acceptance of the improvements by the Town.

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.

SECTIONS 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).

9-2035.01 Plats Submitted

The subdivider shall submit five (5) copies of the final plat, so marked, to the Subdivision Administrator not less than twenty (20) days before the Planning Board meeting at which the approval of the plat is to be considered. One additional copy shall be prepared under G.S. 47-30 and shall bear all the required certifications outlined 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~~ first anniversary of the approval.

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 the size of land areas or suitable scale to assure legibility requires, maps may be placed on two 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.

9-2035.03 Plats 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 Section 47-30 of the General Statutes of North Carolina.

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 the Town 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 surveyed must be 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 following G.S. 47-30, as amended.	
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 acceptably and according to the <u>Town of</u> Valdese specifications and standards in the Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to <u>Town of</u> 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 <u>Town of</u> Valdese Planning Board hereby approves the final plat for the _____ Subdivision.	
_____ Chairman, <u>Town of</u> 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 <u>the Town of</u> 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

<p>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.</p>
--

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

9-2035.05 Contents Required

The final plat shall depict or contain the information listed in 9-2033. Plats not illustrating or containing the data listed in 9-2033 shall be returned by the Subdivision Administrator to the subdivider or his authorized agent for completion and resubmission.

9-2036 REVIEW PROCEDURE

Final plats shall be reviewed according to the following procedure:

9-2036.01 Planning Board Review

The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration. 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.

If the Planning Board disapproves of 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.

9-2036.02 Town Council Review

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~~ before the Town Councils' regularly scheduled meeting.

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 paragraph 9-2036.01.

9-2036.03. Disposition of Copies

Upon action by the Town Council on the final plat, the Subdivision Administrator shall retain one 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.

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.

9-2036.05 Re-subdivision Procedures

For any re-platting or re-subdivision 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.

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 instruments shall be approved by the same agencies as approved on 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.

ARTICLE D
INSTALLATION OF PERMANENT REFERENCE
POINTS AND IMPROVEMENTS

9-2040. PERMANENT REFERENCE POINTS

Before the approval of the final plat, permanent reference points shall have been placed per the following requirements:

- (1) **SUBDIVISION CORNER TIE:** At least one corner of the subdivision shall be designated by course and distance (tie) as required by standards of practice outlined in ~~N~~C.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 following the standards of practice outlined in ~~N~~C.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) inches 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.

9-2040. 01 Public Sites and Open Spaces

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 so that it may be determined when and in what manner such areas will be required.

9-2040. 02 Accesses to Parks, Schools, etc.

Streets shall be designed and walkways dedicated to assuring 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.

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 to~~ create 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.
- (3) The Town of Valdese will utilize the most current Flood Insurance Rate Map (FIRM).

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.

ARTICLE E REQUIRED IMPROVEMENTS, DEDICATION,

RESERVATION AND MINIMUM STANDARDS OF DESIGN**9-2050 General Requirements**

Each major subdivision shall contain the improvements specified in this article, which shall be installed following the requirements of this chapter and paid for by the subdivider unless other means of financing are specifically stated in this chapter. The 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.

9-2050.01 Conformity to Existing Maps or Plans

The location and width of all proposed streets shall ~~be in conformity~~ conform with the official plans, the adopted thoroughfare plan, maps of the Town of Valdese, and existing or amended plans of the Planning Board. Property owners must reserve the required right-of-way for proposed road improvements, identified in the adopted thoroughfare plan when developing the property.

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.

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.

9-2050.04 Private Streets

Private streets may be allowed in subdivisions, 10-acre Exempt Developments and Gated Subdivisions provided they meet minimum construction standards of NC Department of Transportation Subdivision Roads manual, the Town of Valdese 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 accept into its street maintenance system any private street that does not meet the standards listed in this chapter.

9-2050.05-Subdivision Street Disclosure Statement

- A. All streets shown on the final plat shall be designated ~~in accordance with~~ following 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.
- 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~~ per 9-2035.04.F.

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.

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.

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~~ one hundred (100) feet. The lot must be able to meet all dimensional and size requirements of the designated zoning district.

9-2050.08-Reserved

9-2050.09 Contour Maps

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.

9-2050.10 Street Names

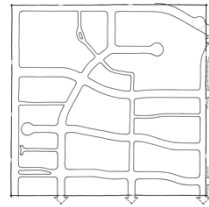
Proposed streets, which are obviously in alignment with others existing and named, shall bear the assigned name of the existing streets. In no case shall the name for proposed streets duplicate or be phonetically similar to existing street names, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, etc.

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 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.

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.

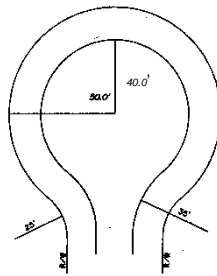
Minimum street right-of-way widths shall be in accordance with the major street plan and shall be not less than the following:

TYPE OF STREET	MINIMUM RIGHT-OF-WAY (FEET)
(1) Arterial	100
(2) Collector Streets - Minor	60
(3) Local or Minor (Residential Streets)	50
(5) Cul-de-sacs*	100
(6) 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~~ Special 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 Special 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 Special Use Permit in a Planned Unit Development

1. 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~~ Special 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 a requirement would prevent a property owner fronting on a major street or thoroughfare from having access to such a major street or highway.

H. 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 1200 feet or provide access to more than twelve lots. Measurement shall be from the centerline of the last intersection of a through the 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.

- I. **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.
- J. **Nonresidential Streets.** The subdivider of a nonresidential subdivision shall provide streets following 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 regards to~~ regarding each particular item. Cross-access between adjacent commercial subdivisions, existing and new, is strongly encouraged wherever possible.
- K.
- L. **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 300 feet or as many feet as possible based on the property's road frontage, topography, water, and other natural features affecting the property.

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 tiers of lots of minimum depth,

except where fronting on major streets or prevented by topographic conditions or ~~abutting~~ adjoining 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.

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.

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~~, also shall conform to the following provisions.

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 9-2051.01 I.

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 Rule 15A NCAC 02B.0243 by the NC Division of Water Resources entitled Catawba River Basin: Protection and Maintenance of Existing Riparian Buffers.

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.

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.

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.

9-2052.07 Orientation of Lot Lines

Side lot lines shall be substantially at right angles or radial to street lines.

9-2052.08 Building Setback Lines

Building setback lines shall comply with the requirements of the zoning district in which the lot is located.

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 watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and an additional width of twelve and one-half (12.5) feet from said lines of the watercourse for the construction and maintenance.

9-2052.10-Reserved

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 of Valdese watershed protection ordinance, Phase II Storm Water 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~~ under 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 stormwater 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 watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and an additional width of twelve and one-half (12.5) of the said lines of the watercourse 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 of Valdese 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 the 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 width determined necessary for maintenance purposes by the Town of Valdese Public Works Department based upon enclosure depth, topography, and location of existing and proposed improvements, but no less than 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 a 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 roadbed.
- (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 stormwater 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.

9-2052.12 Water and Sewer Utilities

- A. All lots within new major subdivisions shall connect to the 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** per this Chapter, Town of Valdese 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.

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 greenways. 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.

9-2053 Cluster Development and Planned Unit Development

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 the 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 public health, safety, and general welfare.

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 Town of Valdese Zoning Ordinance (see Section 9-3111 and 9-3112).

9-2054 Hillside Subdivisions

Hillside Subdivisions shall comply with the following standards for Street Design:

~~9-2054.01 Street Design~~

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.

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 wheelbase 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.

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 convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill. However, where the slope extends beyond the right-of-way, slope easements shall be added where needed. The easement shall extend ten (10) feet beyond the top of the cut where cut exceeds fifteen (15) feet vertically.

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.

9-2054.01~~2~~ Street Improvements for Hillside Subdivisions

Hillside Subdivisions shall comply with the following standards for Pavement:

~~2054.02.01 Pavement~~

Pavement widths shall not be less than specified in Section 9-2051.1 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.

9-2054.02~~3~~ Hillside Lots

All lots in a hillside subdivision shall meet the requirements of the zoning designation of the property.

AN ORDINANCE TO AMEND VARIOUS PROVISIONS OF THE TOWN OF
VALDESE ZONING ORDINANCE, FIRE PREVENTION ORDINANCE AND
MINIMUM HOUSING STANDARDS ORDINANCE TO COMPLY WITH
CHAPTER 160D OF THE NORTH CAROLINA GENERAL STATUTES

WHEREAS, the town council of the Town of Valdese desires to amend certain provisions of the Town of Valdese Zoning Ordinance, the Fire Prevention Ordinance, and the Minimum Housing Standards Ordinance to bring those ordinances into compliance with the requirements of NCGS Chapter 160D; and

WHEREAS, the town council has determined that the proposed ordinance amendments are reasonable and necessary to bring the Town of Valdese ordinances into compliance with applicable North Carolina law; and

WHEREAS, the planning board has considered the Zoning Ordinance amendments, and the planning board recommends that those amendments be adopted;

NOW, THEREFORE, BE IT ORDAINED that the Town of Valdese Zoning Ordinance, the Fire Prevention Ordinance (Part 3, Article B – Fire Prevention and Hazards), and the Minimum Housing Standards Ordinance (Part 9, chapter 1, Article D – Minimum Housing Standards) are amended to make the deletions (strike throughs) and the additions (underlining) that have been presented to the town council for its consideration.

Adopted this 28th day of June, 2021.

John F. Black, Jr., Mayor

ATTEST:

Town Clerk

TOWN OF VALDESE
AMERICAN RESCUE PLAN
CAPITAL RESERVE ORDINANCE AMENDMENT

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 19 of Chapter 159 of the General Statutes of North Carolina, the following capital reserve ordinance is hereby amended.

Section 1. The purpose of the reserve fund was to recognize and distribute funding from the American Rescue Plan (ARP) according to the US Department of Treasury guidelines on eligible items. Due to updated guidance by the U.S. Department of the Treasury along with the Local Government Commission, the ARP funding will need to be accounted for utilizing a different financing mechanism other than the Capital Reserve Fund to be in compliance with the grant requirements.

Section 2. The officers of this unit are hereby directed to amend the capital reserve fund and to delete the fund within the terms of the program ordinance and the budget contained herein.

Section 3. No revenues have been or are anticipated to be available to contribute to this fund:

Section 4. No appropriations have been made or obligated from this fund.

Section 5: Copies of this ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this amendment to delete the fund.

Adopted this 28th day of June, 2021.

John F. Black, Jr., Mayor

Town Clerk

TOWN of VALDESE
RESOLUTION
American Rescue Plan (ARP) Funding

WHEREAS, the American Rescue Plan Act has appropriated approximately \$1,290,000 to be distributed to the Town of Valdese;

WHEREAS, funds will be distributed through the State of North Carolina in two tranches, half of the funding in 2021 and the remainder in 2022;

WHEREAS, only authorized expenditures outlined in the Interim Final Rule published by the U.S. Department of the Treasury will be eligible;

WHEREAS, funds will remain available through December 31, 2024;

WHEREAS, in accordance with NCGS 160A-17.1, it is the desire of the Town Council to accept these funds;

NOW, THEREFORE, BE IT RESOLVED, the Council of the Town of Valdese, North Carolina accepts to receive reimbursement, delegating the responsibility to execute any necessary agreements on behalf of the board to the Town Manager, and in so doing, obligates the Town to all rules and restrictions placed on the funds, such as repayment of any reimbursement of expenditures from the funds later found to have been spent for an unauthorized purpose(s).

THE FOREGOING RESOLUTION IS ADOPTED THIS 28th DAY OF JUNE, 2021.

John F. Black, Jr., Mayor

ATTEST:

Town Clerk

(corporate seal)

**TOWN OF VALDESE
AMERICAN RESCUE PLAN
GRANT PROJECT 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 grant project ordinance is hereby adopted:

Section 1. This ordinance is to establish a budget to recognize funding by the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (CSLRF) and distribute these funds according to the US Department of Treasury guidelines on eligible items. The Town anticipates receiving \$1,290,000 in two tranches. The Town Council authorizes the use of these funds for eligible items under the U.S. Department of the Treasury Interim Final Rule. This can include replacement of lost revenue due to the pandemic, eligible expenses under the CARES Act, and utility infrastructure/capital expenses. Funds will be fully accumulated by the end of FY 21-22 and must be used by December 31st, 2024.

Section 2. The officers of this unit are hereby directed to proceed with the grant funds 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 fund:

Source	Amount	Account Number
Proceeds for General	\$ 390,000	77.3970.001
Proceeds for Utilities	900,000	77.3970.002

	\$ 1,290,000	
	=====	

Section 4. The following amounts are appropriated for the project:

Source	Amount	Account Number
General Capital Outlay	\$ 390,000	77.4200.740
Utility Capital Outlay	900,000	77.8120.740

	\$ 1,290,000	
	=====	

Section 5. The Finance Officer is hereby directed to maintain sufficient specific detailed accounting records to satisfy the requirements of the grantor agency and the grant agreements.

Section 6. 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 7. This grant project ordinance expires on December 31, 2026, or when all the CSLRF funds have been obligated and expended by the town, whichever occurs sooner.

Section 8: Copies of this ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 28th day of June, 2021.

John F. Black, Jr., Mayor

Town Clerk

Valdese Town Council Meeting

Monday, June 28, 2021

Capital Project Ordinance Amendment # 4-34

Subject: Lakeside Park Phase I

Description: To amend capital project ordinance Fund 34
 The original CPO was approved at the November 4, 2019 meeting.
 This amendment recognizes additional pledge of reimbursable funds
 from NC DEQ in addition to the original \$200,000 pledge

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:

Amounts appropriated for capital projects are hereby amended as follows:

Section I:

The following revenues available to the Town will be increased:

Account	Description	Decrease/ Debit	Increase/ Credit
34.3970.005	Grant - NC DEQ		58,945
Total		\$0	\$58,945

Amounts appropriated for expenditure are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
34.6200.760	Construction	58,945	
Total		\$58,945	\$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.