

**Town of Valdese  
Town Council Meeting  
Valdese Town Hall  
102 Massel Avenue SW, Valdese  
Monday, May 3, 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 5.

- A. Approval of Regular Meeting Minutes of April 12, 2021
- B. Approval of Budget Workshop Minutes of April 19, 2021
- C. Revised Valdese Town Council Rules of Procedures
- D. Set Public Hearing – Conditional Use Permit Application #1-4-21
- E. Set Public Hearing – 160D Planning and Development Regulations
- F. Approval of Valdese ABC Board Travel Policy

**7. New Business**

- A. Introduction of New Employees
- B. Acceptance of Building Donation Located at 408 Pineburr Ave SE
- C. Resolution Amending Section 9-1085(b) (Minimum Housing Enforcement)

**8. Manager's Report**

- A. Craft Market is scheduled for Saturday, May 22, 2021, 9:00 a.m. – 4:00 p.m. at the Old Rock School Field.
- B. Town Council Budget Workshop is scheduled for Monday, May 24, 2021, 6:00 p.m.(If needed)
- C. Family Friday Nights Kickoff Celebration is scheduled for Friday, May 28, 2021, 7:00 p.m. – 10:00 p.m. Concerts will continue every Friday until September 3, 2021.
- D. Town Offices Closed on Monday, May 31, 2021, in Observance of Memorial Day
- E. Next Regular Council meeting scheduled for Monday, June 7, 2021, 6:00 p.m.

**9. Mayor and Council Comments**

**10. Adjournment**

## COMMUNICATION NOTES

**To:** Mayor Black  
Town Council

**From:** Seth Eckard, Town Manager

**Date:** April 28, 2021

**Subject:** Monday, May 3, 2021 Council Meeting

### 4. Consent Agenda

- A. Approval of Regular Meeting Minutes of April 12, 2021**
- B. Approval of Budget Workshop Minutes of April 19, 2021**
- C. Approval of Revised Town Council Rules of Procedures**

Enclosed in the agenda packet is a revised copy of the Valdese Town Council Rules of Procedures. The Town Council adopted a Resolution repealing section 2-2010 (appointment of town clerk) of the Code of Ordinances at the April 12, 2021, Council meeting. Staff recommends that Council revise the language referring to "Deputy Town Clerk" to "Town Clerk".

- D. Set Public Hearing Date for Conditional Use Permit Application #1-4-21**

Enclosed in the agenda packet is a memo and a location map from the Planning Department requesting that Council set a public hearing date on Monday, June 7, 2021, for a Conditional Use Permit application #1-4-21 for Carolina Residential Services, Inc.

- E. Set Public Hearing Date for 160D Code Amendments**

Enclosed in the agenda packet is a memo from the Planning Department requesting that Council set a public hearing date on Monday, June 28, 2021, for NCGS 160D Planning and Development Regulations.

- F. Approval of Valdese ABC Board Travel Policy**

Enclosed in the agenda packet is the Valdese ABC Board Travel Policy for FY 21-22. It is required that the appointing authority annually approve the policy as the Valdese ABC Board does not use the state's ABC travel policy. After approval, the Clerk will certify the minutes, and Ms. Caruso will submit the approved policy to the ABC Commission in Raleigh.

### 5. New Business

- A. Introduction of New Employees**

Due to COVID-19, staff has not been able to introduce new employees to Council. Over the next several Council meetings, a Department Head will introduce new hires.

**B. Acceptance of Building Donation Located at 408 Pineburr Ave. SE**

Enclosed in the agenda packet is a Letter of Intent and Resolution authorizing the Town Manager to execute the donor letter of intent on behalf of the Town to accept the donation of real property located at 408 Pineburr Ave. SE.

**Requested Action:** Staff recommends that Council approve the Resolution to accept the donation of real property outlined in the Donor letter and authorize the Town Manager to execute the letter, as presented.

**C. Resolution Amending Section 9-1085(b) (Minimum Housing Enforcement)**

Enclosed in the agenda packet is a Resolution amending Section 9-1085(b) of the Town of Valdese Code of Ordinance. After a review from the Town Attorney, it was found that the current ordinance states that the Town's minimum housing code ordinance provides that if a dwelling is determined to have deteriorated (cost of repairs less than 50% of the value of the dwelling), the owner would be allowed to choose whether to repair the dwelling or to vacate and close it. The statutes have been revised. The revision states that the Town's minimum housing code ordinance eliminated the choice in the Town's statute and allows a code enforcement officer to order that a deteriorated dwelling be repaired, altered, or improved to render it fit for human habitation.

The second proposed change is the section on filing a lis pendens in connection with enforcement actions. A notice of lis pendens is a notice filed in the clerk's office that provides notification of pending litigation involving real property. Planning Director Larry Johnson will be at the meeting to present.

**Requested Action:** Staff recommends that Council approve the Resolution amending section 9-1085(b), as presented.

# READING MATERIAL

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

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF MARCH, 2021. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<b><u>ACTIVITY / FUNCTION</u></b>	<b><u>MONTHLY TOTAL</u></b>
STATION DUTY	130 HOURS
VEHICLE DUTY	97 HOURS
EQUIPMENT DUTY	58 HOURS
EMERGENCY RESPONSES (ON DUTY)	59 HOURS
TRAINING (ON DUTY)	300 HOURS
FIRE ADMINISTRATION	201 HOURS
TRAINING ADMINISTRATION	6 HOURS
MEETINGS	12 HOURS
FIRE PREVENTION ADMINISTRATION	11 HOURS
FIRE PREVENTION INSPECTIONS	4 HOURS

<b><u>TYPE</u></b>	<b><u>NUMBER OF INSPECTIONS</u></b>	<b><u>VIOLATIONS</u></b>
ASSEMBLY	0	0
BUSINESS	0	0
DAYCARE	0	0
EDUCATIONAL	2	16
HAZARDOUS	0	0
INSTITUTIONAL	0	0
MERCANTILE	1	2
RESIDENTIAL	0	0
FOSTER HOMES	1	0
UTILITY/MISC	0	0
REINSPECTIONS	0	0
<b>TOTAL:</b>	<b>4</b>	<b>18</b>

PUBLIC RELATIONS	10 HOURS
HYDRANT MAINTENANCE	7 HOURS
SAFETY ADMINISTRATION	33 HOURS
SAFE KIDS ADMIN/CRS INSPECTIONS	6 HOURS
EXTRA DUTY FIRES	13 HOURS
NON-DEPARTMENTAL DUTIES	1 HOURS
EXTRA DUTY TRAINING	89 HOURS
EXTRA DUTY FIRE/MED STANDBY	11 HOURS
PHYSICAL TRAINING	19 HOURS
EXTRA DUTY MEDICAL RESPONSES	28 HOURS
VOLUNTEER FIREFIGHTER TRAINING	61 HOURS
<b>TOTAL TRAINING MANHOURS:</b>	<b>450 HOURS</b>

**FIRE DEPARTMENT EMERGENCY RESPONSES:**

<b><u>FIRE:</u></b>	<b><u>MONTHLY TOTAL</u></b>
FIRE ALARM	3
MUTUAL AID TO STATION 63	0
MUTUAL AID TO STATION 67	2
ELECTRICAL HAZARD	0
STRUCTURE FIRE	0
SMOKE/GAS ODOR	1
GAS LEAK	1
SERVICE CALLS	4
VEHICLE FIRE	0
STANDBY	<u>2</u>
	<b>13</b>
<b><u>MEDICAL:</u></b>	
ABDOMINAL PAIN	0
ALLERGIC REACTION	0
ANIMAL BITE	0
ASSAULT	0
ASSIST EMS	0
BACK PAIN	0
CANCELLED ENROUTE	1
CARDIAC	0
CHEST PAIN	6
CHOKING	2
CODE BLUE	1
DIABETIC	0
DOA	1
FAINTING	0
FALL	10
GUNSHOT	0
LACERATION/HEMORRAGE	1
OTHER	3
OVERDOSE/INTOXICATED	5
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	3
SEIZURE	1
SICK	4
STABBING	0
STROKE	1
TRAUMATIC INJURY	0
UNCONSCIOUS	<u>1</u>
	<b>40</b>
<b><u>FIRE AND MEDICAL:</u></b>	
OTHER ENTRAPMENT	1
MOTOR VEHICLE ACCIDENT	<u>2</u>
	<b>3</b>
<b><u>TOTAL RESPONSES:</u></b>	<b><u>56</u></b>

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GREG STAFFORD, CHIEF  
VALDESE FIRE DEPARTMENT

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**TOWN OF VALDESE  
TOWN COUNCIL REGULAR MEETING  
APRIL 12, 2021**

The Town of Valdese Town Council met on Monday, April 12, 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, Deputy 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.

**OPEN FORUM/PUBLIC COMMENT:**

**909 W MAIN ST- KAY DRAUGHN, 108 W END STREET SW., VALDESE:** Ms. Draughn read the following statement: For the record, my name is Kay Honeycutt Draughn and I reside at 108 W. End Street SW in Valdese with my husband, David. We are adjoining property owners to the 13-year public nuisance located at 909 W. Main Street which is on your agenda tonight for code enforcement action, hopefully for the last time. As the Town Council is fully aware, this property has been a huge safety issue, a public nuisance and a violation of the minimum housing ordinance for almost two decades. How much longer is the Town going to allow this condemned structure to remain standing? How much longer is the Town going to allow this condemned structure to deface, degrade and disparage the western entrance to Valdese? How much longer is the Town going to allow this condemned structure to remain a safety hazard? It is only a matter of time before someone gets hurt or dies. If this happens, the Town is just as guilty and liable as the property owners. How much longer is the Town going to allow this condemned structure to degrade our property values and our neighbor's property values? How much longer is the Town going to victimize its tax-paying, law-abiding residents by failing to resolve a 13-year problem? Not much longer, I hope.

Tonight, you have the opportunity to end 13 years of complaints. Tonight, you have the opportunity to do the right thing, the lawful thing, which is to approve the ordinance to demolish the public nuisance located at 909 W. Main St. and to approve the associated budget amendment.

Tonight, you have the opportunity to honor and fulfill the oaths you swore on the Bible which were to uphold the laws of the Town of Valdese, the laws of the State of NC and the laws of the United States to the best of your ability.

Tonight, you have the opportunity to remove slum and blight from the western entrance to the Town of Valdese. Tonight, you have the opportunity to send a strong and powerful message to other property owners that are violating the Town's ordinances—a message that says, "code violations will not be tolerated any longer so get your house in order". Tonight, you have an opportunity to abate a dangerous environment in our neighborhood before someone gets hurt.

Tonight, you will hear evidence from Mr. Todd Justice, the Town's own code enforcement officer hired to enforce its minimum housing ordinance. Mr. Justice is an expert in his field, he has followed all the statutes, procedures, and protocols. He has provided everything the TC needs to make a sound and legal decision. In fact, Mr. Justice has followed the general statutes and the Town's ordinances on this property not once, not twice but three (3) times because of ownership changes. David and I, as well as our neighbors, have waited patiently every single time the 3-month mandatory abatement process started over. Finally, the clock ran out, the current owners, a resident of Virginia and Mr. Deal, a Morganton resident, failed to take the proper action as required by the condemnation order issued by Mr. Justice.

David and I have tried to talk to each TC member before the meeting to ask for your support once again. Let me take a moment to address some of the comments we heard:

1. The demolition cost is too high.
2. There are other homes on Main Street that look worse than this one.
3. That house is structurally sound and could be repaired.

First, the price of the demolition was competitively bid out and the lowest bid is \$25,000. If that cost is more than the Town can afford, have the Town's employees tear it down. The Town has all the expertise and equipment it needs to do the job at a fraction of the cost. However, based on market conditions, we believe this cost is reasonable and whatever costs are incurred, a lien for that amount will be placed on the property.

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The Town will eventually recoup any costs incurred. Code enforcement exists to preserve and enhance the safety, appearance and economic vitality of the Town. Any monies spent on code enforcement is a worthwhile long-term investment. While we're on the subject of money, let me remind you that several years ago the Town assessed Mr. Deal, a former owner who created this mess and still has a financial interest in the property, over \$12,000 in fines. What happened to the fines? The Town staff doesn't know, and they couldn't find any records indicating that Mr. Deal paid them. In addition, last year the Town assessed Mr. Deal \$600 in fines for yardwork that have not been paid as of April 9th. According to the documentation, these fines were supposed to become a tax lien on the property if the invoices were not paid within 15 days. Why weren't the liens filed? Further, according to the Burke Co. Tax Administrator, some of the 2020 property taxes have not been paid.

Regarding the second statement, it is irrelevant whether there are other structures on Main Street with violations. The only relevant item before the TC tonight is to approve the ordinance to demolish a structure that is unsafe and unfit for human habitation.

Regarding the third statement, the house is not structurally sound based on factual evidence set forth in the Notice of Violations submitted by the Town's code enforcement officer and the time to repair the property has long since expired. Again, the only relevant item before the TC tonight is to approve the ordinance to demolish a structure that is unsafe and unfit for human habitation.

Tonight, you have an opportunity to abate a serious safety hazard, to end a 13-year nightmare for surrounding law-abiding property owners and the opportunity to right numerous wrongs of the past. Do not give the current owners an opportunity to deceive you again with any last-minute plans to convert the condemned structure into a bed and breakfast. The time to rehabilitate the property has long since passed so why are they being granted an opportunity to present to the TC? They've been given ample opportunities to comply with the Town's ordinances and have failed each time. Don't feel sorry for the property owners. When given the chance to sell the property, several good purchase offers were recently refused.

As requested by the Town's professional staff, its code enforcement officer and the neighbors, please approve the ordinance to demolish a structure that is unsafe and unfit for human habitation as presented. It's easy to fulfill your duty and put an end to 13 years of aggravation. All you have to do is say "aye" or raise your hand in the affirmative and all this will be over. Thank you.

**909 W. MAIN ST. - STEVE HOLDEN, 3894 MALONEY AVE., GLENN ALPINE:** Mr. Holden, Chief Building Inspector for Burke County, shared with Council that he has been involved with this home since 2007 when a permit was issued. Mr. Holden shared that not much has changed. Mr. Holden explained that the permit never expired due to the crisis with the economy in 2008, where the State allowed owners not to have to complete work as long as they could show a receipt of materials being bought and a little work completed. Mr. Holden explained that next week, Burke County is going to put a notice on the home that says it is unsafe and asking the owner to attend a hearing. Mr. Holden feels that the house is in worse condition now.

**909 W. MAIN ST. – WILL MULLER 610 DIXIE AVE. NW, VALDESE:** Will Mueller submitted the following comment read by Deputy Town Clerk, Jessica Lail: Regarding the empty and, by all appearances, abandoned house and apartment located at 909 W. Main Street, way too much time and effort has been expended on abatement proceedings. According to the WPCOG code enforcement officer Justice, two bids have been submitted for demolition of these structures; company "A", \$25,000; and company "B", \$28,000. It is now time for the Town Council to issue an ordinance for abatement. Issue the ordinance! This town pays good money each year to WPCOG for the services of the code enforcement officer, so let the man do his job. Hopefully, this situation will have a better outcome than the Carver property on Bass St. That property, to all appearances, is still just as full of junk as it has been for at least the eleven years that my wife and I have lived in Valdese. If more can be done to clean up that property, please do it. In summation, two properties; 909 Main Street and Bass Street, are unsightly, do not represent Valdese or its values, and should be TOTALLY abated. Please act on this tonight. Signed: Will Mueller, town resident

Mayor Black reminded Council that in the Rules and Procedures, Section 5, Public Comment section, that any citizens that want to address the Council would sign up to speak with the Town Clerk. Mayor Black said normally, we ask citizens to appear in person to speak but since the COVID-19 pandemic, citizens have been allowed to submit written comments to be read. Mayor Black asked Council if they wanted to continue to allow written comments or if we would ask for the citizen to come in-person. Councilman Ogle suggested that we continue to allow written comments while we are still dealing with COVID-19. All other Council members agreed.

**CONSENT AGENDA:** (enacted by one motion)



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**APPROVED REGULAR MEETING MINUTES OF MARCH 1, 2021****APPROVED BUDGET RETREAT MINUTES OF MARCH 23, 2021****SPRING LITTER SWEEP, APRIL 10-24, 2021****APPROVED ORDINANCE DECLARING ROAD CLOSURES FOR THE TOWN OF VALDESE ANNUAL EVENTS:****AN ORDINANCE DECLARING  
ROAD CLOSURE FOR TOWN  
OF VALDESE SPECIAL EVENTS**

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

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

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

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

2021 Independence Day Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on July 2, 2021 from 5:00 PM until 11:00 PM.

2021 Waldensian Festival Kickoff Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 13, 2021 from 5:00 PM until 11:00 PM.

2021 Waldensian Festival Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 14, 2021 from 5:30 AM until 11:00 PM.

2021 Valdese Treats in the Streets (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on October 31, 2021 from 3:30 PM until 6:30 PM.

2021 Valdese Christmas Parade (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on December 4, 2021 from 9:30 AM until 12 Noon.

Signs shall be erected giving notice of the limits and times of these street closures as required by G.S. 20-169. THIS, the 12<sup>th</sup> day of April, 2021.

/s/ John F. Black, Jr., Mayor

ATTEST:

/s/ Town Clerk

**APPROVED REQUEST FROM WALDENSIAN STYLE WINES TO SELL WINE AT ANNUAL EVENTS:**

Waldensian Style Wines has been authorized to sell wine at the Craft Market event on May 22, 2021, from 9:00 a.m. to 4:00 p.m., Independence Day Celebration on July 2, 2021, from 5:00 p.m. until 11:00 p.m., and the 46<sup>th</sup> Annual Waldensian Festival events on August 13 & 14, 2021.

**APPROVED REQUEST FROM OLD COLONY PLAYERS TO SELL ALCOHOL AT ANNUAL EVENTS:**

Old Colony Players has been authorized to sell beer at the Family Friday nights summer concert series kickoff on May 28, 2021, from 6:00 p.m. to 10:00 p.m., Independence Day Celebration on July 1, 2021, from 5:00 p.m. to 11:00 p.m., and Family Friday nights summer concert series finale on September 3, 2021, from 6:00 p.m. – 10:00 p.m.

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

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

**INTRODUCTION OF NEW EMPLOYEES:** Due to a scheduling conflict, no employees were present to be introduce.

**PRESENTATION & APPROVAL OF ORDINANCE TO DEMOLISH PROPERTY (909 MAIN ST):** WPCOG Code Enforcement Officer Todd Justice began by calling the property owner of 909 Main St., Ms. Judy Kuniba. Mr. Justice recapped the high points of the violations served and the history within the last year when Mr. Justice was assigned the Town of Valdese. An Order to Demolish was sent to Ms. Kuniba with a 90- day deadline which expired last month. Mr. Justice explained that since he had issued the Order to Demolish, Ms. Kuniba has hired an Engineer and an Architect to do an assessment of the property to see what it would take to renovate the house fully. Mr. Justice recommends the Town give her more time to complete the assessment. Mr. Justice shared a few things that need to be completed immediately to make the property safe and not dangerous to the public. The home needs to have deadlocks installed to secure anyone from entering. Mr. Justice also shared that the concrete privacy fence at the back of the house is starting to fall over and needs to be addressed.

Ms. Kuniba explained to the Council the history of how she became the home owner after her brother passed away. Due to executor issues, finding documents, COVID-19, and being out of Town, it has taken some time to get where she is today. Ms. Kuniba apologized to Council for the delay. She will get the items completed that were deemed unsafe and wants the structural engineer and architect to see what it would take to renovate.

Mayor Black asked Ms. Kuniba what reasons there are for Council not to proceed with the Order to Demolish. Mayor Black asked the architect to explain what he is planning on doing with the residence. Mike Robbins, the architect, surveyed the home this past December and took some plan dimensions to develop a plan. Mr. Robbins said that the engineer would start working on the house to stabilize the home to meet the Code Enforcements criteria. Mr. Robbins shared that Richard Deal and Judy Kuniba do have a long-term plan, and Ms. Kuniba wants to make a change. Mr. Robbins explained that right now, the most pressing issue is stabilizing the home. Mr. Justice shared that this will take a lot of time and money to get the house stabilized. Councilman Ogle asked Mr. Robbins if he felt the house was salvageable. Mr. Robbins shared that there are unknowns, and right now, they are focused on getting the property safe and work on a long-term plan. Mr. Justice recommends giving it another 90 days.

Councilwoman Hildebran addressed Ms. Kuniba and expressed her sympathy for her brother's passing. Councilwoman Hildebran is concerned that Richard Deal is still involved and shared that he has not been truthful with the Council for the last ten years. Councilwoman Hildebran expressed her reservations in moving forward with this and needs to see more than what Ms. Kuniba is proposing. Councilwoman Hildebran asked Town Attorney Marc Mitchell if we give Ms. Kuniba a timeline would we have to start this process over again. Town Attorney Marc Mitchell said no, based on the Ordinance, Council can defer action. Councilman Sweezy would need to see something completed within the 90 days. Councilwoman Stevenson has concerns with Mr. Deal's involvement but would like to see the home restored.

After a brief discussion it was determined that Mr. Justice would give Council an update in 30 days and it would be placed on the June 28, 2021 Council meeting for reconsideration. Councilman Ogle asked if the garage was included and Mr. Justice shared that it was not because it is not considered a part of the dwelling and not covered in the General Statute.

Councilman Ogle made a motion to continue the consideration of the ordinance for 90 days, seconded by Councilwoman Stevenson. The vote was unanimous.

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**APPROVED TENTATIVE AWARD OF CONTRACT – MCC PROJECT:** Public Services Director Greg Padgett presented a Resolution for a tentative award of contract for the MCC project. The lowest bidder was Smart Electric Company, Inc., in the amount of \$839,400, and after negotiations, the amount ended at \$789,957. (Other bids: Connelly Springs Electric, Inc., - \$848,195, Lake Electric Company, Inc. - \$962,637, Page Power Systems, Inc., - \$979,471, and ITAC - \$1,012,783)

Councilman Ogle made a motion to award the contract to Smart Electric Company, Inc., in the amount of \$789,957, seconded by Councilman Thompson. The vote was unanimous.

**APPROVED OFFER & ACCEPTANCE OF FUNDS FOR MCC PROJECT:** Public Services Director Greg Padgett presented a Resolution and an offer and acceptance of funds from the State. Mr. Padgett explained that we will receive \$210,692 in grant money that we will not have to pay back and an \$884,022 loan with zero percent interest to pay back over a 20 year period.

Councilman Ogle made a motion to approve the Offer & Acceptance of Funds, seconded by Councilwoman Hildebran. The vote was unanimous.

**APPROVED ENGINEERING CONTRACT FOR CLINE AVE. BASIN & PUMP STATION UPGRADES:** Public Services Director Greg Padgett presented an Agreement for Engineering Services with McGill Associates, P.A. for Cline Ave. Basin & Pump Station Upgrades Project. Mr. Padgett explained that this project had been approved. Councilman Ogle stated we had to have an engineering contract to complete the project.

Councilman Ogle made a motion to approve the Engineering Contract for the Cline Ave. Basin & Pump Station Upgrades, seconded by Councilwoman Hildebran. The vote was unanimous.

**INDUSTRIAL ARTS BUILDING DISCUSSION:** This item was deferred, no discussion.

**APPROVED RESOLUTION REPEALING SECTION 2-2010 OF THE TOWN ORDINANCES (APPOINTMENT OF TOWN CLERK):** Town Manager Seth Eckard presented the following Resolution:

**RESOLUTION REPEALING SECTION 2-2010  
(APPOINTMENT OF TOWN CLERK)  
OF THE CODE OF ORDINANCES**

WHEREAS, Section 2-2010 of the Code of Ordinances provides that the town council shall appoint a town clerk; and

WHEREAS, G.S. 160A-148(1) provides that all city officers and employees not elected by the people whose appointment is not otherwise provided for by law shall be appointed by the town manager; and

WHEREAS, the council has determined that it would be in the best interest of the town if the town manager, as opposed to the town council, appointed the town clerk; and

WHEREAS, upon repeal of Section 2-2010, it would become the town manager's responsibility to appoint the town clerk as provided in G.S. 160A-148(1);

IT IS THEREFORE RESOLVED that Section 2-2010 (Appointment of Town Clerk) of the Code of Ordinances is hereby repealed. This ordinance repeal shall take effect upon adoption.

THIS, the 12<sup>th</sup> day of April, 2021.

/s/ John F. Black, Jr., Mayor

ATTEST:  
/s/ Town Clerk

Councilman Ogle asked if the Council would still appoint the Town Clerk. Mr. Eckard explained that the Town Manager would be the person to hire and fire this position just like any other Department Head. Councilwoman Hildebran said that the Town Clerk worked for the Council and asked if the Council would

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not be involved in selecting the Clerk. Mayor Black disagreed with that statement. The Council hires and fires the Town Manager and the Town Attorney. Mr. Eckard explained there are some legal issues with the way it is laid out currently. Councilwoman Hildebran does not have an issue with this Resolution because the Deputy Town Clerk does all the work. Mr. Eckard will consult with Council, as he has been when hiring a Town Clerk.

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

**APPROVED UPDATE TO THE SALARY & POSITION GRADE SCHEDULE:** Chief of Police Jack Moss presented Council with an updated Salary & Position Grade Schedule that includes the recommendation of a new position, Code Enforcement/Animal Control Officer. Chief Moss shared that staff met again to discuss the details and all agreed that this position would report to the Chief of Police and would be advertised as a Sworn or Non-sworn Officer. Chief Moss explained that the current Animal Control vehicle would now go to the Police Department for the Officer to use.

Councilman Ogle made a motion to approve the Code Enforcement/Animal Control Officer position in the updated Salary & Position Grade Schedule, seconded by Councilman Thompson. The vote was unanimous.

**CAPITAL RESERVE ORDINANCE – AMERICAN RESCUE PLAN:** Finance Director Bo Weichel presented the following capital reserve ordinance and explained that this comes from the US Department of Treasurer to help the Town with COVID-19 recovery. Mr. Weichel shared that there are guidelines on how you can use the money. Mr. Weichel explained that Council would see some of the money in the budget they will be approving for next FY. Town Manager Seth Eckard said that we have to report to the Department of Treasurer what we are using the funds for.

**TOWN OF VALDESE  
AMERICAN RESCUE PLAN  
CAPITAL RESERVE ORDINANCE**

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 18 of Chapter 159 of the General Statutes of North Carolina, the following capital reserve ordinance is hereby adopted.

Section 1. The purpose of this reserve fund is to recognize and distribute funding from the American Rescue Plan according to the US Department of Treasury guidelines on eligible items. Eligible items these funds may be used for include replacement of lost revenue due to the pandemic, eligible expenses under the CARES Act, and utility infrastructure. Funds will be fully accumulated by the end of FY 21-22 and must be used by December 31<sup>st</sup>, 2024.

Section 2. The officers of this unit are hereby directed to proceed with the capital reserve 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:

<b>Source</b>	<b>Amount</b>	<b>Account Number</b>
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:

<b>Source</b>	<b>Amount</b>	<b>Account Number</b>
Transfer to General	\$ 390,000	77.4200.740
Transfer to Utilities	900,000	77.8120.740
	-----	
	\$ 1,290,000	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Capital Reserve Fund sufficient

**April 12, 2021, MB#31**

specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. 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. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

Section 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 12th day of April, 2021.

/s/ John F. Black, Jr., Mayor

ATTEST:

/s/ Town Clerk

Councilman Ogle made a motion to approve the aforementioned Capital Reserve Ordinance, seconded by Councilman Sweezy. The vote was unanimous.

**CAPITAL PROJECT BUDGET ORDINANCE – CLINE AVE. BASIN & PUMP STATION UPGRADES:**

Finance Director Bo Weichel presented the following capital project budget ordinance:

**TOWN OF VALDESE  
CLINE AVE. BASIN & PUMP STATION UPGRADES  
CAPITAL PROJECT BUDGET ORDINANCE**

Be it ordained by the Town Council of the Town of Valdese that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance is hereby adopted.

Section 1. The project authorized is **Cline Ave. Basin and Pump Station Upgrades**. Project proposes replacement of aged pipelines and manholes and an aged pump station and force main in the Town of Valdese wastewater collection system. This project proposes to replace approximately 2,200 LF of 8" gravity sewer lines and associated gravity sewer manholes beginning at the existing Cline Avenue Pump Station and extending upstream to Milton Avenue. The project also includes the upgrade of the existing pump station mechanical equipment, discharge piping in the station and approximately 1,575 LF of 8" force main.

The project is to be financed by Division of Water Infrastructure SRP loan of 1.10% interest rate.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the program ordinance and the budget contained herein.

Section 3. The following revenues are anticipated to be available to contribute to this project:

<b>Source</b>	<b>Amount</b>	<b>Assigned Account Number</b>
Utility Fund Contribution	\$ 23,520	50.3000.001
SRP Loan	1,176,000	50.3000.002
	-----	
	\$ 1,199,520	
	=====	

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

<b>Source</b>	<b>Amount</b>	<b>Assigned Account Number</b>
Engineering Report	\$ 22,000	50.8110.100
Design	89,000	50.8110.200
Bidding & Award	7,000	50.8110.300
Construction Admin	72,000	50.8110.400
Planning & Funding Admin	20,000	50.8110.500
Loan Closing Fee	23,520	50.8110.600

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Legal/Admin	5,000	50.8110.700
Construction	961,000	50.8110.800
	-----	
	\$ 1,199,520	
	=====	

Section 5. The finance officer is hereby directed to maintain within the Project Fund sufficient specific detailed accounting records to provide the accounting to town council required by the program procedures, loan agreement(s), grant agreement(s) and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The finance officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.

Section 8. The budget officer is directed to include a detailed analysis of the past and future cost and revenues on this project in every budget submission made to this board.

Section 9: Copies of this project ordinance shall be made available to the budget officer and the finance officer for direction in carrying out this project.

Adopted this 12th day of April, 2021.

/s/ John F. Black, Jr., Mayor

ATTEST:

/s/ Town Clerk

Councilman Ogle made a motion to approve the aforementioned capital project budget ordinance, seconded by Councilwoman Stevenson. The vote was unanimous.

**APPROVED CAPITAL PROJECT ORDINANCE AMENDMENTS** Finance Director Bo Weichel presented the following capital project ordinance amendments:

Valdese Town Council Meeting

Monday, April 12, 2021

Capital Project Ordinance Amendment # 5-35

Subject: Public Safety building

Description: To amend capital project ordinance Fund 35  
Phase II environmental site assessment  
Preparation and submittal of Environmental Report for USDA

**Proposed Action:**

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

**Section I:**

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

Account	Description	Decrease/ Debit	Increase/ Credit
35.3480.001	Distributions		17,204
	Total	\$0	\$17,204

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
35.5300.041	Professional Services	17,204	
	Total	\$17,204	\$0

**Section II:**

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

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

April 12, 2021, MB#31

Valdese Town Council Meeting

Monday, April 12, 2021

Capital Project Ordinance Amendment # 1-54

Subject: Water Plant Upgrades (MCC)

Description: To amend capital project ordinance Fund 54  
The original CPO was approved at the August 2018 council meeting.  
In accordance with the amended offer and acceptance, this will increase the loan amount over the original project ordinance.

**Proposed Action:**

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

**Section I:**

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

Account	Description	Decrease/ Debit	Increase/ Credit
54.3970.000	Transfer from Utility Fund	16,000	
54.3480.002	State Reserve Loan (0% interest)		251,944
Total		\$16,000	\$251,944

Amounts appropriated for capital projects are hereby amended as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
54.8120.045	ER/EID Prep	16,224	
54.8120.041	Loan Admin Fee	4,841	
54.8120.760	Construction	171,086	
54.8120.900	Contingency	43,793	
Total		\$235,944	\$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.

Councilwoman Hildebran made a motion to approve the aforementioned Capital Project Ordinance Amendment, seconded by Councilwoman Stevenson. The vote was unanimous.

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

Town Council & Staff Spring Litter Sweep volunteer day is scheduled for Saturday, April 17, 2021, 9:00 a.m. – 12:00 noon. A rain date is scheduled for Saturday, April 24, 2021, 9:00 a.m. – 12:00 noon. Due to the part-time employee helping pick up litter, there may not be a need for this day. Council will be notified if this is canceled.

Town Council Budget Workshop Dinner Meeting, Monday, April 19, 2021, Old Rock School, Waldensian Room, 6:00 p.m.

Old Colony Players Presents: The Wizard of Oz, April 23-24, 29-30, 2021 & May 1, 6-8, 2021 at the Fred B. Cranford Amphitheatre, visit oldcolonyplayers.com for tickets.

**MAYOR AND COUNCIL COMMENTS:** Mayor Black thanked Council and staff for working so hard on this agenda.

Councilman Ogle referred back to Ms. Kay Draughn's public comment on the Town staff not having record of Mr. Deal's fines being waived. Councilman Ogle remembers that Council did waive the fines and feels it is in the minutes. Town Manager said that staff could not find it.

**ADJOURNMENT:** At 7:16 p.m., there being no further business to come before Council, Councilman Ogle made a motion to adjourn, seconded by Councilman Thompson. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, May 3, 2021, 6:00 p.m.

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 Town Clerk

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 Mayor

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**TOWN OF VALDESE  
TOWN COUNCIL MEETING - BUDGET WORKSHOP  
APRIL 19, 2021**

The Town of Valdese Town Council met on Monday, April 19, 2021, at 6:00 p.m., in the Waldensian Room, Old Rock School, 400 Main Street West, Valdese, North Carolina. The following were present: Mayor John F. "Chip" Black, Jr., Councilwoman Susan Stevenson, Councilman J. Andrew Thompson, and Councilman Roy F. Sweezy. Also present were Town Clerk Jessica Lail, Town Manager Seth Eckard, Finance Director Bo Weichel, and Public Services Director Greg Padgett.

Absent: Councilwoman Frances Hildebran, Councilman Keith Ogle

A quorum was present.

Others present: Jeff Blalock, Greenway Transportation Finance Director, Brian Horton, WPCOG Transportation Planning Manager, Dwayne Wilson of Dwayne Wilson Insurance & Financial Services, RJ Mozeley, McGill Associates, P.A.

Mayor Black called the meeting to order at 6:00 p.m., and invited members of Council to enjoy dinner catered by Myra's.

**GREENWAY PUBLIC TRANSPORTATION** Mr. Horton and Mr. Blalock provided Council with an overview of the Public Greenway Transportation. Mr. Horton shared that the ridership numbers for the Valdese route is lower than wanted, but COVID-19 has affected it. Greenway proposes that Valdese's contribution of \$10,000 remain the same for the next two fiscal years. Mr. Horton suggested in year three, the grant funding ends, and the local government will need to pay more to keep the service going or enact changes to the service. Mr. Horton shared instead of having four routes, it may change to two routes. Mr. Blalock mentioned that as fuel prices go up, ridership goes up. Councilwoman Stevenson suggested more marketing, and Mayor Black suggested placing it on our Town's website. The Council will see if the ridership numbers improve over the next two years and reevaluate the program.

**EMPLOYEE HEALTH INSURANCE UPDATE** Mr. Wilson discussed Blue Cross Blue Shield's first renewal quote, which showed an increase of 32.4% to our premiums if we keep the same plan. Mr. Wilson informed Council that this is very early in the process, and he is working on getting that number lowered and shopping out other providers as well. Mr. Wilson will update staff as soon as updated quotes are received.

**VALDESE CEMETARY EXPANSION** Mr. Padgett asked Council what direction they want to go with on the cemetery expansion, which would cost around \$11,000. Mr. Padgett shared that J&M Memorials approached the Town to purchase a mausoleum. Mr. Padgett feels it would be an expensive endeavor but it could be an option in the future. Council discussed the possibility of developing an ordinance/resolution that reserved the remaining unpurchased plots for family members of existing plot owners. Council recommended at this time not to expand and revisit for consideration in the future.

**SIGNAGE AT VALDESE PUBLIC LIBRARY** Mr. Eckard shared with Council that in his negotiations with donating money to the Burke County Library, one of the agreements in giving money would be that "Valdese" would be placed on the building. Mr. Weichel showed Council three options and shared the cost of each. After a brief discussion, Council recommended that we not pay Burke County to put "Valdese Branch" on the building.

**FY 21-22 PROPOSED BUDGET AND HIGHLIGHTS** Mr. Eckard and Mr. Weichel presented the proposed budget for FY 21-22. They reviewed the General and Utility Funds Revenues and Expenditures.

**FY 21-22 PROPOSED RATE STRUCTURE & FEE SCHEDULES** Mr. Weichel briefly reviewed the proposed rate structure, which was also presented at the budget retreat. Mr. Weichel shared that the cemetery plots would be increased. Mr. Mozeley shared that there would be a 5% increase to industrial and commercial utility customers and a 3% increase to residential utility customers. The proposed residential rate increase equates to a \$1.35 increase for minimum users each month.

**ADJOURNMENT** At 8:00 p.m., there being no further business to come before Council, Mayor Black adjourned the meeting.

The next meeting is a regularly scheduled meeting on Monday, May 3, 2021, 6:00 p.m., Valdese Town Hall.

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Town Clerk

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Mayor



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**May 3, 2021, Ordinance Book No. 9**  
**VALDESE TOWN COUNCIL – RULES OF PROCEDURES**

## **Meeting Procedures**

When the Valdese Town Council conducts its meetings, it follows *Suggested Rules of Procedures for a City Council, third edition, by A. Fleming Bell, II, UNC School of Government*, as a guideline to ensure a fair and impartial hearing for one and all, that each person's rights will be protected, and that democratic rule prevails at each meeting.

**Purpose:** The purpose of this policy statement is to develop favored procedures for council to look to and follow. It is hoped that these procedures will facilitate communications between and among council members and staff, provide efficient and equitable procedures to follow in and out of public meetings, and provide general information and recommendations about how the council conducts Town business. This policy is based in large part on N.C. law, but the policy is not designed to create any additional rights or obligations and does not provide any procedural rights to any person. The failure of council or any other person to adhere to the recommended procedures described herein shall not affect the validity of any meeting or action taken by council. To the extent there is conflict or any discrepancy between these procedures and the N.C. General Statutes, case law, or Town ordinances (collectively "law"), the law shall prevail.

### **Rule 1. Regular Meetings**

The council shall hold a regular meeting on the first Monday of each month, except that if a regular meeting day is a legal holiday or falls on Easter Monday, the meeting shall be held on the next business day. So that the annual budget may be approved before July 1, the council may hold its July meeting on the last Monday in June. The meeting shall be held at Valdese Town Hall Council Chambers and shall begin at 6:00 p.m. A copy of the council's current meeting schedule shall be filed with the town clerk.

### **Rule 2. Special, Emergency, and Recessed Meetings**

#### **Special Meetings.**

The mayor, the mayor pro tempore, or any two members of the council may at any time call a special council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. At least forty-eight hours before a special meeting called in this manner, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) e-mailed or delivered to the mayor and each council member or left at his or her usual dwelling place; (2) posted on the council's principal bulletin board, or if none, at the door of the council's usual meeting room; and (3) e-mailed or delivered to each newspaper, radio station, television station, and person who has filed a written request for notice with the town clerk. Only those items of business specified in the notice may be transacted at a special meeting called in this manner, unless all members are present or have signed a written waiver of notice. [Even in such a case, the council shall only discuss or transact items of business not specified in the notice if it determines in good faith at the meeting that it is essential to discuss or act on the item immediately.]

A special meeting may also be called or scheduled by vote of the council in open session during another duly called meeting. The motion or resolution calling or scheduling the special meeting shall specify its time, place, and purpose. At least forty-eight hours before a special meeting called in this manner, notice of the time, place, and purpose of the meeting shall be (1) posted on the council's principal bulletin board; and (2) e-mailed or delivered to each newspaper, radio station, television station, and person who has filed a written request for notice with the town clerk. [Such notice shall also be e-mailed or delivered at least forty-eight hours before the meeting to each council member not present at the meeting at which the special meeting was called or scheduled, and to the mayor if he or she was not present at that meeting.] [Only those items of business specified in the notice may be discussed or transacted at a special meeting called in this manner, unless all members are present or those not present have signed a written waiver of notice, and the council determines in good faith at the meeting that it is essential to discuss or act on the item immediately.]

**May 3, 2021, Ordinance Book No. 9**  
**VALDESE TOWN COUNCIL – RULES OF PROCEDURES**

**(b) Emergency Meetings.** Emergency meetings of the city council may be called only because of generally unexpected circumstances that require immediate consideration by the council. Only business connected with the emergency may be considered at an emergency meeting. One of the following two procedures must be followed to call an emergency meeting of the council.

(1) The mayor, the mayor pro tempore, or any two members of the council may at any time call an emergency council meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. The notice shall be e-mailed or delivered to the mayor and each council member or left at his or her usual dwelling place at least six hours before the meeting.

(2) An emergency meeting may be held at any time when the mayor and all members of the council are present and consent thereto, or when those not present have signed a written waiver of notice, but only in either case if the council complies with the notice provisions of the next paragraph.

Notice of an emergency meeting under (1) or (2) shall be given to each local newspaper, local radio station, and local television station. This notice shall be given either by telephone or e-mail.

**(c) Recessed.** A properly called regular, special, or emergency meeting may be recessed to a time and place certain by a procedural motion made and adopted as provided in Rule 18, Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene. No further notice need be given of a recessed session of a properly called regular, special, or emergency meeting.

### **Rule 3. Organizational Meeting**

On the date and at the time of the first regular meeting in December following a general election in which council members are elected, or at an earlier date, if any, set by the incumbent council, the newly elected members shall take and subscribe the oath of office. During this meeting, the council shall elect a mayor pro tempore. This organizational meeting shall not be held before the municipal election results are officially determined, certified, and published in accordance with Subchapter IX of Chapter 163 of the North Carolina General Statutes.

### **Rule 4. Agenda**

**(a) Proposed Agenda.** The town clerk shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least ten days before the meeting. Any council member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed ordinances shall be attached to the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is available and feasible to reproduce. Each council member shall receive the electronic, proposed agenda and agenda package on their iPads by Friday afternoon prior to the Monday meeting and the proposed agenda shall be available for public inspection and distribution or copying when it is distributed to the council members.

**(b) Consent Agenda.** The council may designate a part of the agenda as the “consent agenda.” Items shall be placed on the consent agenda by those preparing the proposed agenda if they are judged to be noncontroversial and routine. Any member may remove an item from the consent agenda and place under “Item(s) Removed From Consent Agenda.” All items on the consent agenda shall be voted on and adopted by a single motion, with the minutes reflecting the action on each item.

**(c) Open Meetings Requirements.** The council shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number, or other designation, or other secret device or method, with the

## VALDESE TOWN COUNCIL – RULES OF PROCEDURES

intention of making it impossible for persons attending a meeting of the council to understand what is being deliberated, voted, or acted on. The council may, however, deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda—sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on—are available for public inspection at the meeting.

### **Rule 5. Public Comment**

The council shall provide at least one period for public comment per month during a regular meeting, unless no regular meeting is held that month. Any individual or group who wishes to address the council shall inform the town clerk, any time prior to the start of the meeting, and provide their name, address and subject matter about which they wish to speak. Comments should be limited to five minutes per speaker.

### **Rule 6. Order of Business**

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- I. Call Meeting to Order
- II. Invocation
- III. Pledge of Allegiance
- IV. Informational Items:
  - A. Communication Notes
  - B. Reading Material
- V. Open Forum/Public Comment
- VI. 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 VII.
  - A. Approval of the minutes, etc.
- VII. Item(s) Removed from Consent Agenda
- VIII. New Business:
  - A. Public hearings, etc.
- IX. Manager's Report
- X. Mayor and Council Comments
- XI. Closed Session
- XII. Adjournment

### **Rule 7. Office of Mayor**

The mayor shall preside at all meetings of the council but shall have the right to vote only when there is a tie. In order to address the council, a member must be recognized by the mayor.

The mayor or other presiding officer shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (c) To entertain and answer questions of parliamentary law or procedure;
- (d) To call a brief recess at any time;

## VALDESE TOWN COUNCIL – RULES OF PROCEDURES

(e) To adjourn in an emergency.

A decision by the presiding officer under (a), (b), or (c) may be appealed to the council upon motion of any member, pursuant to Rule 18(b), Motion 1. Such a motion is in order immediately after a decision under (a), (b), or (c) is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion if timely made may not be ruled out of order.

**Rule 8. Office of Mayor Pro Tempore**

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the council's pleasure. A council member who serves as mayor pro tempore shall be entitled to vote on all matters and shall be considered a council member for all purposes, including the determination of whether a quorum is present. In the mayor's absence, the council may confer on the mayor pro tempore any of the mayor's powers and duties. If the mayor should become physically or mentally unable to perform the duties of his or her office, the council may by unanimous vote declare that the mayor is incapacitated and confer any of the mayor's powers and duties on the mayor pro tempore. When a mayor declares that he or she is no longer incapacitated, and a majority of the council concurs, the mayor shall resume the exercise of his or her powers and duties. If both the mayor and mayor pro tempore are absent from a meeting, the council may elect from among its members a temporary chairman to preside at the meeting.

**Rule 9. When the Presiding Officer Is in Active Debate**

If the mayor or other presiding officer becomes actively engaged in debate on a particular proposal, he or she may designate another council member to preside over the debate. The mayor or other presiding officer shall resume presiding as soon as action on the matter is concluded.

**Rule 10. Action by the Council**

The council shall proceed by motion. Any member may make a motion.

**Rule 11. Second to the Motion**

Second to the motion will be required.

**Rule 12. One Motion at a Time**

A member may make only one motion at a time.

**Rule 13. Substantive Motions**

A substantive motion is out of order while another substantive motion is pending.

**Rule 14. Adoption by Majority Vote**

A motion shall be adopted by a majority of the votes cast, a quorum as defined in Rule 27 being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

**Rule 15. Voting**

The council will vote verbally. In case of a split vote the mayor will call for the ayes or noes. The mayor may also ask for the vote by show of hands.

**Rule 16. Debate**

The mayor shall state the motion and then open the floor to debate on it. The mayor shall preside over the debate according to the following general principles:

## VALDESE TOWN COUNCIL – RULES OF PROCEDURES

- (a) The maker of the motion is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken;
- (c) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

**Rule 17. Ratification of Actions**

To the extent permitted by law, the council may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

**Rule 18. Procedural Motions**

(a) **Certain Motions Allowed.** In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(b) **Order of Priority of Motions.** In order of priority, the procedural motions are

*Motion 1. To Appeal a Procedural Ruling of the Presiding Officer.* A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the council, as specified in Rule 7. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

*Motion 2. To Adjourn.* This motion may be made only at the conclusion of council consideration of a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess [or adjourn] to a time and place certain shall also comply with the requirements of Rule 2(c).

*Motion 3. To Take a Brief Recess.*

*Motion 4. To Go into Closed Session.* The council may go into closed session only for one or more of the permissible purposes listed in G.S. 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the council expects to receive advice during the closed session, if in fact such advice is to be received.

*Motion 5. To Leave Closed Session.*

*Motion 6. To Defer Consideration -- Table.* The council may defer a substantive motion for later consideration at an unspecified time. A substantive motion the consideration of which has been deferred expires 100 days thereafter unless a motion to revive consideration is adopted. If consideration of a motion has been deferred, a new motion with the same effect cannot be introduced while the deferred motion remains pending (has not expired). A member who wishes to revisit the matter during that time must take action to revive consideration of the original motion [Rule 18(b), Motion 9].

*Motion 7. To Postpone to a Certain Time or Day.* If consideration of a motion has been postponed, a new motion with the same effect cannot be introduced while the postponed motion remains pending. A member who wishes to revisit the matter must wait until the specified time.

*Motion 8. To Amend.*

- (a) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion

## VALDESE TOWN COUNCIL – RULES OF PROCEDURES

or an amendment shall be treated as a motion to amend.

- (b) A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is disposed of by a vote.
- (c) Any amendment to a proposed ordinance [order] [policy] [resolution] shall be recited by the mayor before the vote on the amendment.

*Motion 9. To Revive Consideration.* The council may vote to revive consideration of any substantive motion earlier deferred by adoption of Motion 6 of Rule 18(b). The motion is in order at any time with 100 days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires 100 days after the deferral unless a motion to revive consideration is adopted.

*Motion 10. To Rescind or Repeal.* The council may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

### **Rule 19. Renewal of Motion**

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reintroduction has been adopted.

### **Rule 20. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before it is amended or before the presiding officer puts the motion to a vote, whichever occurs first.

### **Rule 21. Duty to Vote**

Every member must vote unless excused by the remaining members according to law. A member who wishes to be excused from voting shall so inform the presiding officer, who shall take a vote of the remaining members. No member shall be excused from voting except upon matters involving the consideration of his or her own financial interest or official conduct. In all other cases, a failure to vote by a member who is physically present in the council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

### **Rule 22. Introduction of Ordinances**

A proposed ordinance shall be deemed to be introduced on the date the subject matter is first voted on by the council.

### **Rule 23. Adoption of Ordinances and Approval of Contracts**

(a) Generally. An affirmative vote equal to a majority of all the members of the council not excused from voting on the question in issue (including the mayor's vote in case of an equal division) shall be required to adopt an ordinance, to take any action that has the effect of an ordinance, or to make, ratify, or authorize any contract on behalf of the city. In addition, no ordinance or action that has the effect of an ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote equal to or greater than two-thirds of all the actual membership of the council, excluding vacant seats, and not including the mayor unless he or she has the right to vote on all questions before the council. No ordinance shall be adopted unless it has been reduced to writing before a vote on adoption is taken.

### **Rule 24. Adoption of the Budget Ordinance**

Notwithstanding the provisions of the city charter, general law, or local act:

- (1) Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the council by a simple majority of those present and voting, a quorum being present;

**VALDESE TOWN COUNCIL – RULES OF PROCEDURES**

- (2) No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the council; and
- (3) The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the council and ending with the adoption of the budget ordinance, the council may hold any special meetings that may be necessary to complete its work on the budget ordinance. Except for the notice requirements of the open meetings law, which continue to apply, no provision of law concerning the call of special meetings applies during that period so long as (a) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (b) no business other than consideration of the budget is taken up. This rule does not allow, and may not be construed to allow, the holding of closed meetings or executive sessions by the council if it is otherwise prohibited by law from holding such a meeting or session.

**Rule 25. Special Rules of Procedure**

The board has no special rules at this time.

**Rule 26. Closed Sessions**

The council may hold closed sessions as provided by law. The council shall only commence a closed session after a motion to go into closed session has been made and adopted during an open meeting. The motion shall state the purpose of the closed session. If the motion is based on G.S. 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The council shall terminate the closed session by a majority vote.

Only those actions authorized by statute may be taken in closed session. A motion to adjourn or recess shall not be in order during a closed session.

**Rule 27. Quorum**

A majority of the actual membership of the council plus the mayor, excluding vacant seats, shall constitute a quorum. A majority is more than half. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

**Rule 28. Public Hearings**

Public hearings required by law or deemed advisable by the council shall be organized by a special order (adopted by a majority vote) that sets forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted for each speaker, and other pertinent matters. The rules may include, but are not limited to, rules (a) fixing the maximum time allotted to each speaker; (b) providing for the designation of spokespersons for groups of persons supporting or opposing the same positions; (c) providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the hall (so long as arrangements are made, in the case of hearings subject to the open meetings law, for those excluded from the hall to listen to the hearing); and (d) providing for the maintenance of order and decorum in the conduct of the hearing.

All notice and other requirements of the open meetings law applicable to council meetings shall also apply to public hearings at which a majority of the council is present; such a hearing is considered to be



## VALDESE TOWN COUNCIL – RULES OF PROCEDURES

part of a regular or special meeting of the council. These requirements also apply to hearings conducted by appointed or elected committees of the council, if a majority of the committee is present. A public hearing for which any notices required by the open meetings law or other provisions of law have been given may be continued to a time and place certain without further advertisement. The requirements of Rule 2(c) shall be followed in continuing a hearing at which a majority of the council is present.

The council may vote to delegate to city staff members, as appropriate, the authority to schedule, call, and give notice of public hearings required by law or the council. The council shall provide adequate guidelines to assist staff members in fulfilling this responsibility, and it shall not delegate the responsibility in cases where the council itself is required by law to call, schedule, or give notice of the hearing.

At the time appointed for the hearing, the mayor or his or her designee shall open the public hearing and then preside over it. When the allotted time of five minutes per person expires or when no one wishes to speak who has not done so, the presiding officer shall declare the hearing closed.

### **Rule 29. Quorum at Public Hearings**

A quorum of the council shall be required at all public hearings required by state law. If a quorum is not present at such a hearing, the hearing shall be continued until the next regular council meeting without further advertisement.

### **Rule 30. Minutes**

Full and accurate minutes of the council proceedings, including closed sessions, shall be kept. The board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the council, the “ayes” and “noes” upon any question shall be taken. Members’ and other persons’ comments may be included in the minutes if the council approves.

Minutes and general accounts of closed sessions may be sealed by action of the council. Such sealed minutes and general accounts may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

### **Rule 31. Appointments**

The council may consider and make appointments to other bodies, including its own committees, if any, only in open session. The council may not consider or fill a vacancy among its own membership except in open session.

Town staff liaisons to boards and commissions shall make recommendations to council for appointments/reappointments.

### **Rule 32. Committees and Boards**

**(a) Establishment and Appointment.** The council or the mayor, if the mayor is delegated that power by the council, may establish and appoint members for such temporary and standing city committees and boards as are needed to help carry on the work of city government. Any specific provisions of law relating to particular committees and boards shall be followed.

**(b) Open Meetings Law.** The requirements of the open meetings law shall apply to all elected or appointed authorities, boards, commissions, councils, or other bodies of the city that are composed of two or more members and that exercise or are authorized to exercise legislative, policy-making, quasi-judicial, administrative, or advisory functions. However, the law’s requirements shall not apply to a meeting solely among the city’s professional staff.

**May 3, 2021, Ordinance Book No. 9**  
**VALDESE TOWN COUNCIL – RULES OF PROCEDURES**

**Rule 33. Amendment of the Rules**

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, so long as the amendment is consistent with the city charter, general law, and generally accepted principles of parliamentary procedure. Adoption of an amendment shall require an affirmative vote equal to or greater than two-thirds of all the actual membership of the council, excluding vacant seats, and not including the mayor.

**Rule 34. Reference to *Robert's Rules of Order Newly Revised***

To the extent not provided for in these rules, and to the extent it does not conflict with North Carolina law or with the spirit of these rules, the council shall refer to *Robert's Rules of Order Newly Revised*, to answer unresolved procedural questions.

Adopted this \_\_ day of \_\_\_\_\_, 2021.

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

\_\_\_\_\_  
Town Clerk

**Memorandum**

To: John Black, Mayor  
Town Council Member

From: Larry Johnson, Planning Director  
Teresa Kinney, Technical Assistance Planner Date:

April 28, 2021

Subject: Set Public Hearing Date  
Conditional Use Permit

Staff respectfully request that Council set June 7<sup>th</sup>, 2021 as the date to hold a public hearing for Conditional Use Permit Amendment 1-4-21.

The Town has also received a petition from Carolina Residential Services, Inc. requesting a conditional use permit to allow for Adult Rehabilitation Facility located in the M-1 Manufacturing District and is located at 813 and 815 Kathy Drive NE.

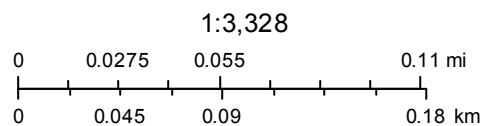
Staff will present the recommendation of the Valdese Planning Board on the Conditional Use Permit during the public hearing. A location map is attached for your review.

If you have comments or questions, please contact me.

## 2Bf88



April 26, 2021



## **Memorandum**

To: John Black, Mayor  
Town Council Member

From: Larry Johnson, Planning Director  
Teresa Kinney, Technical Assistance Planner Date:

April 28, 2021

Subject: Set Public Hearing Date  
Planning and Development Regulations  
(Zoning and Subdivision) for NCGS 160D

Staff respectfully request that Council set June 28<sup>th</sup>, 2021 as the date to hold a public hearing for the NCGS 160D Planning and Development Regulations.

The Town is required by statute to adopt specific changes to the Planning and Development Regulations, including Zoning and Subdivision Regulations, Fire Code, and Minimum Housing and Non-Residential Buildings. Adoption of specific changes the aforementioned are required by NCGS 160D before July 1, 2021.

Staff will present the recommendation of the Valdese Planning Board at the public hearing meeting.

If you have comments or questions, please contact me.

# VALDESE ABC BOARD

1018 MAIN STREET WEST • VALDESE, NC 28690 • PHONE 828-879-2227 • FAX 828-874-0332

## TRAVEL POLICY

Proposed Date: April 20, 2021

Effective Date: July 1, 2021

Re: Adoption of Town of Valdese Travel Policy  
JULY 01, 2000, "Revised"

The following guidelines will be used as a travel policy for all employees traveling on Valdese ABC Board business:

1. Reimbursement of travel expenses-

Meals will be covered on a per day rate. (Based on the current Federal Per Diem Rate) The Federal Per Diem Rates listing (found online at [www.gsa.gov](http://www.gsa.gov)) is updated on an annual basis in October. If the traveler's destination is not listed on the website, the standard rate is used.

When traveling to attend a conference, where some meals are provided by the conference, remaining meals not provided by the conference will be eligible for reimbursement on a reasonable and actual basis (receipts required).

When on a trip not involving an over-night stay, expenses (i.e. mileage, meals) will be eligible for reimbursement on a reasonable and actual basis (receipts required).

Lodging will be covered for reasonable and actual cost (receipt required). Unless attending a conference, the Federal Per Diem Listing should be used as a guideline in determining reasonable cost.

2. Board credit cards may be used to reserve lodging. Travel related cost however, should not be charged to the credit cards. All travel expenses will be covered through travel advances and / or reimbursements.
3. It is the responsibility of the General Manager to determine which meal allowances are eligible for reimbursement to employees for partial day travel. Reimbursement will be for reasonable and actual cost (receipt required).

4. All requests for travel expense reimbursement (i.e. meals, lodging, mileage, etc.) must be accompanied by a travel expense report.

5. Other issues-

- Transportation: As a general rule, it is the Board's policy that an employee is authorized to use a private vehicle and be reimbursed at the current standard mileage rate. The current standard rate shall be the same as paid by the Town of Valdese following the IRS rate.
- Telephone: Any employee traveling out of town and staying overnight will be allowed a personal telephone call up to \$4 per night. Board business related calls will be paid by the Board.
- Registration: Registration fees are generally paid in advance directly to the vendor, not from travel advance.
- Advances: The Board does permit employees to request advances whenever an estimated trip cost exceed \$25. If the cost is less than \$25, employee must seek reimbursement when the trip is completed.

Adopted this the 20th day of April, 2021

  
Chairman

Attest:

  
Secretary/Treasurer

RESOLUTION  
(Gift of Pineburr Property)

WHEREAS, Pineburr 408, LLC (the Donor) has offered to donate to the Town of Valdese that property identified as REID 33227 by the Burke County Tax Office; and

WHEREAS, the Donor has provided to the Town a Donor Letter of Intent (the Donor Letter) outlining the terms of this proposed donation; and

WHEREAS, the Town desires to develop this offered property in connection with the construction of a new public safety complex for the Town; and

WHEREAS, the Town Council is therefore of the opinion that the acceptance of this donation would be in the best interest of the Town;

IT IS THEREFORE RESOLVED AS FOLLOWS:

1. The Town of Valdese agrees to accept the donation of real property as outlined in the Donor Letter.
2. The Town Manager is authorized to execute the Donor Letter on behalf of the Town.

THIS 3<sup>RD</sup> DAY OF MAY, 2021

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

ATTEST:

\_\_\_\_\_  
Town Clerk

(corporate seal)



## DONOR LETTER OF INTENT

Name of Donor: Pineburr 408, LLC, a North Carolina limited liability company  
Address: P. O. Box 816, Morganton, NC 28680

To: The Town of Valdese  
Attention: Seth Eckard, Town Manager and Members of the Town Council  
P.O. Box 339  
Valdese NC 28690

Date: April 7, 2021

Dear Mr. Eckard and Members of the Town Council:

On behalf of Pineburr 408, LLC, I am pleased to submit this letter of intent to gift the real property located at 408 Pineburr Avenue, SE (the "Property"), to the Town of Valdese. The Property is identified by the Burke County Tax Office as PIN 2743-03-8327 (REID 33227) and is a portion of the property shown in Plat Book 5, Page 95, of the Burke County Registry.

It is my understanding that the Town is interested in acquiring and developing this Property for the purpose of constructing a new public safety complex to serve the Town. I am pleased to be able to donate the Property to the Town and to have a role in helping the Town to achieve its goal of developing a new facility to serve the community in the coming years.

The gift will be a voluntary donation of the Property to the Town for use for public purposes, and the Donor does not expect to receive any payment or other compensation.

The Donor will execute a **Special Warranty Deed** to the Town for the Property within thirty (30) days of the Town's acceptance of this Letter of Intent, unless otherwise agreed by the Parties. The Donor will convey fee simple marketable title, subject to ad valorem taxes for the current year (which will be prorated), utility easements, access easements, rights of way, and other matters of record.

**The Property will be conveyed by the Donor to the Donee in AS IS/WHERE IS condition without representation or warranty, express or implied, as to the condition thereof, the merchantability thereof or the fitness thereof for any particular use or purpose, and Donor is under no obligation to repair any portion of the Property.**

By agreeing to accept the donation of this Property, the Donee agrees to cooperate with the Donor in reporting the donation to the Internal Revenue Service and NC Department of Revenue, upon the request of the Donor.

This the \_\_\_\_ day of \_\_\_\_\_, 2021.

Donor: PINEBURR 408, LLC

By: \_\_\_\_\_  
W. Gresham Orrison, Member/Manager

**ACCEPTANCE:**

Donee: The Town of Valdese, a municipal corporation

By: \_\_\_\_\_  
Printed name and title: \_\_\_\_\_

STATE OF NORTH CAROLINA  
COUNTY OF BURKE

I, \_\_\_\_\_, a Notary Public of the County and State aforesaid, certify that **W. Gresham Orrison** personally came before me this day and acknowledged that he is the Member/Manager of **PINEBURR 408, LLC**, a North Carolina limited liability company, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp, this \_\_\_\_\_ day of April, 2021.

(NOTARY STAMP-SEAL)

\_\_\_\_\_  
Notary Public (*Signature*)

\_\_\_\_\_  
Printed Name  
My Commission Expires: \_\_\_\_\_

**STATE OF NORTH CAROLINA  
COUNTY OF BURKE**

I, the undersigned Notary Public, do hereby certify that \_\_\_\_\_ personally came before me this date and acknowledged that he/she is the \_\_\_\_\_ of the TOWN OF VALDESE, a local government of the State of North Carolina, and that by authority duly given and as the act of the Town of Valdese, the foregoing document was signed in its name by \_\_\_\_\_, its authorized representative.

Witness my hand and official stamp or seal, this the \_\_\_\_ day of April, 2021.

(NOTARY STAMP-SEAL)

\_\_\_\_\_, Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

RESOLUTION AMENDING SECTION 9-1085(b)  
OF THE TOWN OF VALDESE CODE OF ORDINANCES

WHEREAS, the minimum housing code statutes for the State of North Carolina (formerly G.S. 160A-441 et. seq., now G.S. 160D-1201 et. seq.) allowed a municipal ordinance to provide in the case of deteriorated dwellings that the owner of the unfit dwelling could be ordered “to repair, alter or improve or to vacate and close” the unfit structure; and

WHEREAS, the minimum housing code statutes were subsequently amended to allow a municipal ordinance to provide that instead of the owner being given a choice as to whether to repair, alter or improve or to vacate and close, the owner could be ordered “to repair, alter or improve the dwelling in order to render it fit for human habitation”; and

WHEREAS, the town council desires to amend the town’s minimum housing code ordinance as now allowed so that owners of a deteriorated dwelling will no longer be given a choice as to whether to repair, alter or improve the dwelling, or to vacate and close it; and

WHEREAS, to avoid having to reinstitute enforcement proceedings when there is a change of ownership, the town council desires to provide for the filing of a notice of lis pendens to notify property owners that minimum housing code enforcement actions are being taken;

IT IS THEREFORE RESOLVED that Section 9-1085(b) is amended to read as follows:

“(b) If after such notice and hearing the code enforcement officer 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 percent (50%) of the value of the dwelling, requiring the owner to repair, alter and improve such dwelling to comply with the minimum standards of fitness established by this chapter within a specified period of time, not to exceed ninety (90) days. Such order may also direct and require the owner to vacate and close such dwelling until such repairs, alterations and improvements have been made. Upon application by the owner of a dwelling within the specified time, the code enforcement officer may grant extensions of up to one (1) year if such dwelling is occupied by its owner, or up to 180 days if the dwelling is not occupied by its owner, for good cause shown.

(2) Within ten (10) days from the date of an order determining that a building is dilapidated, the owner may notify the code enforcement officer in writing of his intent to make such repairs or alterations to the place of habitation so as to comply with the minimum standards of fitness. Upon receipt of an owner's written intent to repair the place of habitation within the time provided in this subsection, the code enforcement officer shall issue a supplemental order directing the owner to commence and complete the repairs or alterations necessary to comply with the minimum standards of fitness. The code enforcement officer shall allow a reasonable time for the owner to make such repairs or alterations, but in no event shall the period of time allow for such repairs or alterations be less than 30 days nor more than 90 days unless an extension of up to 90 days is granted by the code enforcement officer for good cause. Upon application by the owner within the specified period of time, the code enforcement officer may grant extensions of up to one (1) year for an owner-occupied dwelling, or up to 180 days for all other places of habitation for good cause shown.

(3) The code enforcement officer may cause the complaint and notice issued under subsection (a) and the findings of fact and order issued under this subsection along with a notice of lis pendens to be filed in the office of the Clerk of Superior Court of Burke County. From the date and time of indexing by the clerk of court, the complaint and notice of hearing or findings of fact and order shall be binding upon the successors and assigns of the owners of and parties in interest in the place of habitation. A copy of the notice of lis pendens shall be served upon the owners and parties in interest in the place of habitation at the time of filing. The notice of lis pendens shall remain in full force and effect until it is canceled. The code enforcement officer shall have the authority to notify the clerk of court to cancel the notice of lis pendens when the code enforcement officer determine that there no longer is a need for that notice to remain in effect.

(4) The code enforcement officer 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.

(5) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the code enforcement officer may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building or posted shall constitute a misdemeanor.

(6) If the owner fails to comply with an order to remove or demolish the dwelling, the code enforcement officer may cause such dwelling to be removed or demolished;"

provided, however, that the powers of the code enforcement officer set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the code enforcement officer to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the code enforcement officer 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.

(7) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the code enforcement officer, 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 code enforcement officer, 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 code enforcement officer, 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.

(8) If any occupant fails to comply with an order to vacate a dwelling, the code enforcement officer 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 code enforcement officer produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the code enforcement officer 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 code enforcement officer to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.

(9) Any violation of this section shall additionally subject the offender to a civil penalty to be recovered by the Town pursuant to section 1-7.

ADOPTED THIS, THE \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

\_\_\_\_\_  
JOHN F. BLACK, JR., Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(Corporate seal)