



**Town of Valdese
Town Council Meeting
Valdese Town Hall
102 Massel Avenue SW, Valdese
Monday, May 6, 2019
6:00 P.M.**

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

4. Informational Items:

- A. Communication Notes
- B. Reading Material

5. Open Forum/Public Comment

6. Consent Agenda

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

- A. Approval of Regular Meeting Minutes of April 1, 2019
- B. Approval of Budget Workshop Minutes of April 15, 2019
- C. Approval of Amended VEDIC Bylaws
- D. Approval of Ordinance Declaring Road Closures for Town of Valdese Special Events
- E. Renewal of Lease Agreement at Old Rock School with Still Waters Counseling, Inc.
- F. Revised Valdese Town Council Rules of Procedures
- G. Budget Amendments

7. New Business

- A. Presentation of Safety Awards
- B. Special Event Ordinance and Permit
- C. Contract with WPCOG for Code Enforcement Services
- D. Adoption of WPCOG Code Enforcement Ordinances
- E. Public Hearing for Conditional Use Permit #1-4-19
- F. Amendment to Interlocal Economic Development Agreement for Burke Business Park

8. Manager's Report

- A. Next Regular Council meeting scheduled for Monday, June 3, 2019, 6 p.m.
- B. Family Friday Nights begin May 24, 2019.
- C. Valdese Farmers Market opens Friday, May 24, 2019 at 11:00 a.m. at Old Rock School
- D. Granville Morrow Memorial Fun Fishing Day at McGalliard Falls Park on May 18, 2019, 9:00 a.m.-1:00 p.m. (NOTE: Rain Date-June 1, 2019)
- E. Town Offices Closed on Monday, May 27, 2019, in Observance of Memorial Day

9. Mayor and Council Comments

10. Adjournment

COMMUNICATION NOTES

To: Mayor Black
Town Council

From: Seth Eckard, Town Manager

Date: May 1, 2019

Subject: Monday, May 6, 2019 Council Meeting

6. Consent Agenda

- A. Approval of Regular Meeting Minutes of April 1, 2019**
- B. Approval of Budget Workshop Minutes of April 15, 2019**
- C. Approval of Amended VEDIC Bylaws**

Enclosed in the agenda packet is a copy of the amended bylaws of Valdese Economic Development Investment Corporation. Upon approval, the VEDIC Board of Directors will consist of 22 members; 14 of which will be appointed by specific nonprofit corporations and governmental entities, and will accomplish VEDIC's mission to have 100% municipality participation. The Town of Glen Alpine, Town of Longview, and Town of Rhodhiss will be added as appointing governmental entities.

- D. Approval of Ordinance Declaring Road Closures for Town of Valdese Special Events**

Enclosed in the agenda packet is a request to close part of US 70/Main Street in Valdese for the Independence Day Celebration, Annual Waldensian Festival Events, Treats in the Streets, and Annual Christmas Parade. Actual dates and times are listed in the agenda packet.

- E. Renewal of Lease Agreement at Old Rock School with Still Waters Counseling, Inc.**

Enclosed in the agenda packet is an Annual Lease Agreement at the Old Rock School with Still Waters Counseling, Inc. in the amount of \$305.00 per month. The monthly rate for FY 19-20 was \$283 per month.

- F. Revised Valdese Town Council Rules of Procedures**

Enclosed in the agenda packet is a revised copy of the Valdese Town Council Rules of Procedures. Staff recommends that Council revise "Rule 6. Order of Business" to change the order of the agenda, placing Manager's Report before Mayor and Council Comments.

- G. Budget Amendments**

Enclosed in the agenda packet are two budget amendments prepared by Finance Director Bo Weichel. These amendments will move funds to appropriate accounts.

7. New Business

A. Presentation of Safety Awards

Fire Chief Charlie Watts will present the departmental safety awards.

B. Special Event Ordinance and Permit

Enclosed in the agenda packet is a memo from Community Affairs Director Morrissa Angi, the Special Event Ordinance, and the Special Event Permit Application, and a resolution adopting the ordinance. The Special Event Ordinance and Special Event Permit Application will provide staff with necessary policy guidance to aid in the preparation of special events on public property and within the Downtown District. Ms. Angi will be at the meeting to present these items.

Requested Action: Staff recommends that Council approve the Special Event Ordinance and Special Event Permit Application, as presented.

C. Contract with WPCOG for Code Enforcement Services

Enclosed in the agenda packet is an agreement with the Western Piedmont Council of Governments for code enforcement services. The agreement is in the amount of \$56,669.22 for a period of 26 months, effective May 1, 2019 to June 30, 2021. Funds for May and June fees have been identified in the current fiscal year planning budget. Mr. Billy Rickles of WPCOG will be at the meeting to present this contract.

Requested Action: Staff recommends that Council approve the agreement with WPCOG for code enforcement services in the amount of \$56,669.22 and appoint William "Billy" L. Rickles, Jr. as the Town of Valdese Code Enforcement Officer. Deputy Town Clerk Courtney Kennedy will administer the oath of office at a later date.

D. Adoption of WPCOG Code Enforcement Ordinances

Enclosed in the agenda packet are code enforcement ordinances presented by Western Piedmont Council of Government and four resolutions to adopt the ordinances. Adopting these ordinances will ensure uniformity of code enforcement throughout the jurisdictions WPCOG provides code enforcement services to.

Requested Action: Staff recommends that Council approve the code enforcement ordinances, as presented.

E. Public Hearing for Conditional Use Permit #1-4-19

Enclosed in the packet is a memo from Planning Director Larry Johnson regarding Application 1-4-19 for Striker Properties LLC requesting a Conditional Use Permit to allow a 60-unit multi-family project in the B-2 General Business District.

Requested Action: Mayor Black will need to open the public hearing to accept public comment. Anyone wishing to speak will need to be sworn by the Deputy Town Clerk. Staff and the Planning Board are recommending that Council approve the Conditional Use Permit as presented. NOTE: Council will sit as a Quasi-judicial board during this hearing and verbatim minutes will be prepared.

F. Amendment to Interlocal Economic Development Agreement for Burke Business Park

Enclosed in the agenda packet is a memo from BDI President Alan Wood and the proposed amendment to the Interlocal Economic Development Agreement for Burke Business Park. Burke County and City of Morganton have partnered with BDI to secure grant funds from the Industrial Development Fund (IDF) to install a 500,000 gallon water tank at Burke Business Park to address water flow issues at the site. The amendment will allow Burke County and City of Morganton to recoup the grant match funds from new tax revenues generated at the park when a new industry is established at the site.

Requested Action: Staff recommends that Council approve the amendment to the Interlocal Economic Development Agreement for Burke Business Park, as presented.

READING MATERIAL

VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT**February 1st-28th, 2019**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF FEBRUARY, 2019. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>TOTAL HOURS</u>
STATION DUTY	100 HOURS
VEHICLE DUTY	90 HOURS
EQUIPMENT DUTY	20 HOURS
FIRE ADMINISTRATION	198 HOURS
TRAINING ADMINISTRATION	2 HOURS
MEETINGS	19 HOURS
FIRE PREVENTION ADMINISTRATION	61 HOURS
FIRE PREVENTION INSPECTIONS	11 HOURS
<u>TYPE / NUMBER OF INSPECTIONS:</u>	
ASSEMBLY	3
BUSINESS	1
EDUCATIONAL	0
FACTORY	0
HAZARDOUS	0
MERCANTILE	2
RESIDENTIAL	0
STORAGE	0
<u>TOTAL INSPECTIONS:</u>	6
<u>VIOLATIONS NOTED:</u>	38
SAFE KIDS ADMIN/CRS INSPECTIONS	13 HOURS
PUBLIC RELATIONS	5 HOURS
HYDRANT MAINTENANCE	0 HOURS
SAFETY ADMINISTRATION	20 HOURS
PHYSICAL TRAINING	4 HOURS
TRAINING	68 HOURS
ON-DUTY EMERGENCY RESPONSES	45 HOURS
OFF-DUTY EMERGENCY RESPONSES	21 HOURS
FIRE/MEDICAL STANDBY	0 HOURS
OFF-DUTY TRAINING	39 HOURS
<u>TOTAL TRAINING MANHOURS:</u> (INCLUDES VOLUNTEER FIREFIGHTERS)	269 HOURS

FIRE DEPARTMENT EMERGENCY RESPONSES:**FIRE:**

ALARM	4
GAS ODOR/SPILL	2
TREE/LINE DOWN	0
MUTUAL AID TO STATION 63	3
STAND BY	0
VEHICLE	1
SMOKE INVESTIGATION	2
STRUCTURE	0
GOOD INTENT	<u>0</u>
	12

MEDICAL:

ABDOMINAL PAIN	2
ALLERGIC REACTION	0
ASSAULT	1
ASSIST EMS	0
BACK PAIN	0
CANCELLED ENROUTE	1
CARDIAC	0
CHEST PAIN	1
CHOKING	1
CODE BLUE	1
DIABETIC	1
DOA	1
FAINTING	1
FALL	4
HEADACHE	0
LACERATION/HEMORRAGE	1
MOTOR VEHICLE ACCIDENT	1
OTHER	2
OVERDOSE/INTOXICATED	0
PREGNACY	0
PSYCHIATRIC	0
RESPIRATORY	3
SEIZURE	1
SICK	2
STABBING	0
STROKE	1
TRAUMATIC INJURY	1
UNCONSCIOUS	<u>1</u>
	27

FIRE AND MEDICAL:

MVA	2
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TOTAL: 41 RESPONSES

Respectfully Submitted,

Charles Watts, Chief
Valdese Fire Department

VALDESE FIRE DEPARTMENT - MONTHLY ACTIVITY REPORT**March 1st-31st, 2019**

THE BELOW REPORT OUTLINES THE ACTIVITIES PERFORMED BY THE FIRE DEPARTMENT DURING THE MONTH OF MARCH, 2019. THE REPORT SHOWS THE AMOUNT OF TIME SPENT ON EACH ACTIVITY AND THE TYPE AND NUMBER OF EMERGENCY FIRE DEPARTMENT RESPONSES.

<u>ACTIVITY / FUNCTION</u>	<u>TOTAL HOURS</u>
STATION DUTY	112 HOURS
VEHICLE DUTY	95 HOURS
EQUIPMENT DUTY	22 HOURS
FIRE ADMINISTRATION	237 HOURS
TRAINING ADMINISTRATION	1 HOURS
MEETINGS	19 HOURS
FIRE PREVENTION ADMINISTRATION	91 HOURS
FIRE PREVENTION INSPECTIONS	27 HOURS
<u>TYPE / NUMBER OF INSPECTIONS:</u>	
ASSEMBLY	3
BUSINESS	4
EDUCATIONAL	3
FACTORY	2
HAZARDOUS	0
MERCANTILE	2
RESIDENTIAL	1
STORAGE	0
TOTAL INSPECTIONS:	15
<u>VIOLATIONS NOTED:</u>	178
SAFE KIDS ADMIN/CRS INSPECTIONS	18 HOURS
PUBLIC RELATIONS	9 HOURS
HYDRANT MAINTENANCE	0 HOURS
SAFETY ADMINISTRATION	25 HOURS
PHYSICAL TRAINING	2 HOURS
TRAINING	51 HOURS
ON-DUTY EMERGENCY RESPONSES	50 HOURS
OFF-DUTY EMERGENCY RESPONSES	40 HOURS
FIRE/MEDICAL STANDBY	0 HOURS
OFF-DUTY TRAINING	33 HOURS
TOTAL TRAINING MANHOURS: (INCLUDES VOLUNTEER FIREFIGHTERS)	231 HOURS

FIRE DEPARTMENT EMERGENCY RESPONSES:**FIRE:**

ALARM	4
GAS ODOR/SPILL	1
TREE/LINE DOWN	0
MUTUAL AID TO STATION 63	1
MUTUAL AID TO STATION 67	1
ELECTRICAL	2
STRUCTURE	1
MULCH FIRE	1
GOOD INTENT	<u>0</u>
	11

MEDICAL:

ABDOMINAL PAIN	2
ALLERGIC REACTION	0
ASSAULT	0
ASSIST EMS	0
BACK PAIN	1
CANCELLED ENROUTE	0
CARDIAC	0
CHEST PAIN	2
CHOKING	0
CODE BLUE	0
DIABETIC	0
DOA	4
FAINTING	2
FALL	7
HEADACHE	0
LACERATION/HEMORRAGE	1
MOTOR VEHICLE ACCIDENT	2
OTHER	4
OVERDOSE/INTOXICATED	1
PREGNACY	0
PSYCHIATRIC	2
RESPIRATORY	7
SEIZURE	2
SICK	1
STABBING	0
STROKE	0
TRAUMATIC INJURY	0
UNCONSCIOUS	<u>0</u>
	38

TOTAL: 49 RESPONSES

Respectfully Submitted,

CHARLES WATTS, CHIEF
VALDESE FIRE DEPARTMENT

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**TOWN OF VALDESE
TOWN COUNCIL REGULAR MEETING
APRIL 1, 2019**

The Town of Valdese Town Council met on Monday, April 1, 2019, 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 Courtney Kennedy, and various department heads.

Absent: None.

A quorum was present.

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

OPEN FORUM/PUBLIC COMMENT:

VALDESE LAKESIDE PARK-KRISTINA MERCER, 800 ZELINE AVENUE NE, VALDESE: Ms. Mercer spoke in support of Valdese Lakeside Park. Ms. Mercer believes the park will help local businesses increase their revenues. Ms. Mercer believes that the park is a great incentive for teachers and students of North Carolina School of Science and Mathematics, and others looking to relocate, to live in Valdese. Ms. Mercer finished by sharing a story regarding a Burke County homeowner who converted their basement into an apartment; the owner rents the apartment through Airbnb and recently received a reservation from an individual from Stockholm, Sweden. This individual is traveling to Burke County to participate in a swim/run event at Lake James State Park in April. Ms. Mercer finished by saying that Valdese Lakeside Park will be a park that people travel for someday, and encouraged Council to approve the agenda items related to Valdese Lakeside Park.

VALDESE LAKESIDE PARK-JIM CLARK, 4639 LAKEVIEW ACRES RD, VALDESE: Mr. Clark informed Council that he is speaking in support of Friends of the Valdese Rec, and to urge Council to support the Valdese Lakeside Park Master Plan. Mr. Clark shared that he and his family are very active and for many years have had to travel to other towns to make use of their parks and facilities. Mr. Clark stated that the Valdese Lakeside Park gives his family the opportunity to be active in their hometown. Mr. Clark finished by sharing how individuals, families, students, and volunteers have already put great efforts in building and maintaining the park; highlighting how many young students from Draughn, Heritage, and even younger children, are already investing time in the park. Mr. Clark shared "that by supporting the efforts at the park, we are supporting these young people whom we will leave this town to."

ROCK SCHOOL ARTS FOUNDATION-LINDA HARVEY, 404 LOUISE AVE, VALDESE: Ms. Harvey informed Council that she is the president of the Rock School Arts Foundation and thanked Council for their ongoing support. Ms. Harvey introduced Sharon Bowman, the new Rock School Arts Foundation Executive Director. Ms. Bowman provided Council with an overview of her experience and accomplishments and thanked Council for their past and present support of the foundation.

VALDESE LAKESIDE PARK-BROOKE HEAVNER, 207 FOREST DRIVE NE, VALDESE: Mr. Heavner shared that he supports Valdese Lakeside Park, as long as tax payer dollars are not used to fund it. Mr. Heavner shared that he donated to the park because he knew it was a great opportunity for the town; thinking that the park would have trails and simple amenities, but it has turned into a \$3.2 million project that the Town cannot afford. Mr. Heavner believes the Town should spend money on paving streets, replacing water lines, and maintaining the property the Town already has. Mr. Heavner identified ways that the Town could bring in additional revenues through the Recreation Department, such as hosting volleyball and basketball tournaments.

VALDESE LAKESIDE PARK-GLENN HARVEY, 404 LOUISE AVE, VALDESE: Mr. Harvey expressed concerns with Council being asked to approve resolutions related to multi-million dollar investments at Valdese Lakeside Park, without giving the public an opportunity to discuss and express their desires for this project. Mr. Harvey expressed concern with the Valdese Lakeside Park Master Plan as the plan was

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previously presented at \$3.1 million, and is now \$3.8 million. Mr. Harvey requested that Council table the resolution adopting the Valdese Lakeside Park Plan, hold one or more public hearings on the park, and seek input from all residents through a survey or ballot.

VALDESE LAKESIDE PARK-BETH HEILE, 5294 MINERAL SPRINGS MOUNTAIN AVE, VALDESE: Ms. Heile provided Council with an overview of events that have been held, or are scheduled, at Valdese Lakeside Park; sharing that the past events have been well attended and hundreds of hours of volunteer time have been logged. Ms. Heile shared with Council that in addition to those attending the meeting in support of the park, there are many other ways to identify that there is enough support to continue seeking grant funding, such as weekly visitors to the park and “constant buzz” on social media. Ms. Heile shared that many of the donors to the Valdese Lakeside Park Project are Valdese residents or businesses. Ms. Heile finished by asking Council to approve all items that move the Valdese Lakeside Park project forward.

QUESTIONS-BRENDA SHUPING, 600 CAROLINA STREET, VALDESE: Ms. Shuping shared that she is not against Valdese Lakeside Park but questioned if now is the right time for Valdese to invest so much money in a park. Ms. Shuping shared that she would like to see walking and biking trails, a picnic area with a shelter, and a small playground at the park. Ms. Shuping questioned what “significant” meant to Council with regard to public input; how many citizens actually have the same goals as the ones being presented; what will the Town do if the resolutions are approved and grant funds, contributions, and gifts are not received as hoped; and if the citizen petition will have any impact on Council’s decisions.

FOOD TRUCKS & VALDESE LAKESIDE PARK-PETER SKELTON, 796 SKIE CIRCLE, VALDESE: Mr. Skelton asked Council to consider adopting an ordinance that will allow food trucks in town. Mr. Skelton believes that food trucks will positively impact business at The Levee Brewery and will bring more visitors to Valdese. Mr. Skelton also spoke in favor of Valdese Lakeside Park as he believes it will encourage more people to visit Valdese.

VALDESE LAKESIDE PARK-DON BRITTAIN, 909 EDMOND STREET NW, VALDESE: Mr. Brittain shared a story about “suds falls” and how the area turned into McGalliard Falls Park. Mr. Brittain stated that Valdese Lakeside Park will take time to develop but will be a great asset in Valdese. Mr. Brittain finished by encouraging everyone to join Friends of the Valdese Rec.

VALDESE LAKESIDE PARK-VERITY CONLEY, 512 SOUTH AVE SW, VALDESE: Ms. Conley shared that she enjoys taking her younger sister to Valdese Lakeside Park, and believes that parks are important for children to be able to play outside.

VALDESE LAKESIDE PARK-DOROTHY NURMINEN, GRANITE FALLS: Ms. Nurminen informed Council that she is from Granite Falls and visits Valdese Lakeside Park frequently. Ms. Nurminen shared that she loves the park and believes the proposed amenities will bring a lot of people to Valdese.

VALDESE LAKESIDE PARK-JEAN MARIE COLE, 703 BERTIS STREET SW, VALDESE: Ms. Cole shared that she loves the idea of the park, but would like to see other municipalities make financial contributions to its development as they will benefit from the park as well. Ms. Cole expressed concerns about the issues with the Public Safety Building and stated that police and fire protection are more important to her than a park.

VALDESE LAKESIDE PARK-LINDA GIBBS, 629 LAUREL STREET NE, VALDESE: Ms. Gibbs spoke in favor of Valdese Lakeside Park by stating that the park will add to the quality of life in Valdese.

VALDESE LAKESIDE PARK-CARLA BERRY, 204 COLOMBO STREET NW, VALDESE: Ms. Berry stated that she trusts in the Council to make the best decision possible for the future of Valdese and expressed her appreciation for each member.

CONSENT AGENDA: (enacted by one motion)

APPROVED REGULAR MEETING MINUTES OF MARCH 4, 2019

APPROVED BUDGET RETREAT MINUTES OF MARCH 18, 2019

APPROVED SPECIAL MEETING MINUTES OF FEBRUARY 28, 2019 AND MARCH 22, 2019

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SPRING LITTER SWEEP, APRIL 13-27, 2019 The Town will be participating in the North Carolina Department of Transportation's Biannual Cleanup Drive that will be held April 13-27, 2019.

APPROVED RESOLUTION ADOPTING REVISED RECORD RETENTION SCHEDULE:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF VALDESE APPROVING THE NORTH CAROLINA GENERAL RECORDS SCHEDULE FOR LOCAL GOVERNMENT AGENCIES RECORDS RETENTION AND DISPOSITION SCHEDULE ISSUED MARCH 1, 2019

WHEREAS, the North Carolina Division of Archives and History of the Department of Cultural Resources is responsible for assisting local governments in records management, including the destruction of obsolete records and the protection of essential records as provided by Chapters 121 and 132 of the General Statutes of North Carolina, and;

WHEREAS, the municipal records management program provides advice, service and training in the control, maintenance, preservation and disposal of official public records in the custody of local governmental units, and;

WHEREAS "Public Record" means any document, paper, letter, map, book, photograph, film, sound recording, magnetic or other tape, electronic data processing record, artifact or other documentary material made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of the North Carolina government or its subdivisions, and;

WHEREAS, the Department of Cultural Resources has issued an amendment to the Records Retention Schedule date March 1, 2019, and;

WHEREAS, the General Records Schedule for Local Government Agencies Retention and Disposition Schedule is endorsed by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch;

NOW, THEREFORE, BE IT RESOLVED by the Town of Valdese Town Council that the Council adopts the North Carolina General Records Schedule for Local Government Agencies Retention and Disposition Schedule, as updated by the North Carolina Department of Cultural Resources in accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, dated March 1, 2019, a copy of which is on file in the office of the Town Clerk.

BE IT FURTHER RESOLVED this schedule is to remain in effect from the date of approval until it is reviewed and updated.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF VALDESE, NORTH CAROLINA, on this, the 1st day of April, 2019; such meeting was held in compliance with the Open Meetings Act, at which meeting a quorum was present and voting.

TOWN OF VALDESE
/s/ John F. Black, Jr., Mayor

ATTEST: /s/ Frances Hildebran, Town Clerk

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

End Consent Agenda

ITEMS REMOVED FROM CONSENT AGENDA:

REQUESTS TO SELL ALCOHOL AT SUMMER EVENTS: Councilman Ogle asked where the alcohol sales would occur. Community Affairs Director Morrissa Angi informed Council that sales will occur in the town-owned parking lot where the Family Friday Nights Summer Concert Series takes place. The area will

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be barricaded for safety and signs will mark "no alcohol beyond this point" to inform attendees of the drinking boundaries. Ms. Angi presented the following requests:

Friends of the Valdese Rec request to sell beer in the town parking lot located adjacent to the 100 block of West Main Street in Downtown Valdese during the Family Friday Nights Summer Concert Series Kickoff Celebration on May 24, 2019 from 7:00pm to 10:00pm and the Family Friday Nights Summer Concert Series Finale Celebration held on August 30, 2019 from 7:00pm to 10:00pm; and to sell beer in the parking spaces located adjacent to the 100 block of West Main Street in Downtown Valdese during the Valdese Independence Day Celebration on June 28, 2019 from 5:00pm to 11:00pm and Waldensian Festival event on August 9, 2019 from 5:00pm until 11:00pm and August 10, 2019 from Noon until 11:00pm.

The Levee Brewery & Pub request to sell beer in the town parking lot located adjacent to the 100 block of West Main Street in Downtown Valdese during the Family Friday Nights Summer Concert Series Kickoff Celebration on May 24, 2019 from 7:00pm to 10:00pm and Family Friday Nights Summer Concert Series Finale Celebration held on August 30, 2019 from 7:00pm to 10:00pm.

Waldensian Style Wines request to sell wine in the parking spaces located adjacent to the 100 block of West Main Street in Downtown Valdese during the Valdese Independence Day Celebration on June 28, 2019 from 5:00pm to 11:00pm and Waldensian Festival event on August 9, 2019 from 5:00pm until 11:00pm and August 10, 2019 from Noon until 11:00pm.

Waldensian Heritage Wines request to sell wine in the parking spaces located adjacent to the 100 block of West Main Street in Downtown Valdese during the Valdese Independence Day Celebration on June 28, 2019 from 5:00pm to 11:00pm and Waldensian Festival event on August 9, 2019 from 5:00pm until 11:00pm and August 10, 2019 from Noon until 11:00pm.

Councilman Sweezy made a motion to approve the aforementioned requests, seconded by Councilwoman Stevenson. The vote was unanimous.

INTRODUCTION OF NEW EMPLOYEE Police Chief Jack Moss introduced Police Officer Dustin McKinney.

PUBLIC HEARING FOR ZONING MAP AMENDMENT #1-2-19 Mayor Black opened the public hearing and asked if anyone wished to speak either for or against the request.

WPCOG Planning Technician Hunter Nestor shared that the proposed rezoning request was petitioned by Striker Properties, LLC for the parcels located at 108 Parley Street SW and Waldo Street SW, requesting that the parcels be rezoned from M-1 Manufacturing to B-2 General Business. The Valdese Planning Board recommended that Council approve the rezoning. Mr. Nestor offered a PowerPoint of the property and said the public hearing was properly advertised, the property was posted and adjoining property owners were notified by mail.

Mr. Nestor informed Council that Striker Properties, LLC may seek a conditional use permit for the two parcels if Council approves the rezoning request.

There being no one else wishing to speak, Mayor Black closed the public hearing.

After a brief discussion, Councilman Sweezy made a motion to approve the aforementioned rezoning, seconded by Councilman Ogle. The vote was unanimous.

Councilman Ogle made a motion to call a public hearing on May 6, 2019 at 6:00 p.m. for a conditional use permit application, seconded by Councilwoman Stevenson. The vote was unanimous.

CDBG NEIGHBORHOOD REVITALIZATION SCATTERED-SITE PROGRAM WPCOG Community Development Administrator Lisa Helton presented the Fair Housing Plan & Activities, Section 3 Plan, Equal Employment & Procurement Plan, Language Access Plan, and the following Capital Project Ordinance:

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TOWN OF VALDESE
COMMUNITY DEVELOPMENT BLOCK GRANT
NEIGHBORHOOD REVITALIZATION
SCATTERED SITE HOUSING
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 established to finance the CDBG NR Scattered Site Housing Project for a project that rehabilitate houses scattered through the town limits and is to be financed by a CDBG grant and the Town of Valdese.

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:

CDBG Grant	32-3480-000	\$ 350,600
Town of Valdese	32-3480-001	<u>25,000</u>
		\$ 375,600
		=====

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

Administration	32-4900-040	\$ 31,800
Rehabilitation	32-4900-450	343,800

		\$ 375,600
		=====

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 1st day of April, 2019

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

/s/ Frances Hildebran, Clerk to the Board

Councilwoman Hildebran made a motion to approve the Fair Housing Plan & Activities, Section 3 Plan, Equal Employment & Procurement Plan, Language Access Plan, and Capital Project Ordinance for the CDBG Neighborhood Revitalization Scattered-site Housing Program; seconded by Councilman Sweezy. The vote was unanimous.

CONTRACT WITH WPCOG FOR GRANT ADMINISTRATION FOR CDBG NEIGHBORHOOD REVITALIZATION SCATTERED-SITE PROGRAM WPCOG Community Development Administrator Lisa Helton informed Council that the agreement authorizes WPCOG to administer the \$350,600 Community Development Block Grant (CDBG) grant for the Neighborhood Revitalization Scattered-site Housing

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Program; in the amount of \$31,000 for administrative services and \$18,000 for construction supervision services. Funding for this agreement will come from the grant funds.

Councilman Ogle made a motion to approve the agreement with WPCOG for grant administration, seconded by Councilman Thompson. The vote was unanimous.

VALDESE LAKESIDE PARK WPCOG Community & Economic Development Administrator Erin Schotte informed Council that staff is working diligently to submit viable applications for grant funding for various projects at Valdese Lakeside Park. Staff is requesting permission to submit an application for funding from PARTF. To have the strongest possible application, Council will need to approve the PARTF Basic Facts and Assurances, Valdese Lakeside Park Master Plan, and Valdese Lakeside Park CIP. Ms. Schotte informed Council that no Town funds are being committed to these projects, all matching funds will be provided from private contributions. Ms. Schotte presented the PARTF Basic Facts and Assurances, Valdese Lakeside Park Master Plan, and Valdese Lakeside Park CIP.

Councilman Sweezy made a motion to approve the PARTF Basic Facts and Assurances, seconded by Councilwoman Stevenson. The vote was unanimous.

APPROVED RESOLUTION ADOPTING VALDESE LAKESIDE PARK MASTER PLAN Ms. Schotte informed Council that the Master Plan was presented and adopted at a past meeting but it has since been revised to clarify some recommendations, including the pedestrian bridge across McGalliard Creek that would connect two Town parks. The adopted Master Plan will garner additional points on the grant application. Ms. Schotte presented the following resolution:

A RESOLUTION ADOPTING THE 2019 VALDESE LAKESIDE PARK MASTER PLAN

WHEREAS, the Town of Valdese has partnered with Destination by Design to create a Master Plan for the new Valdese Lakeside Park designed to reflect the needs and desires of the Town and of its citizens; and

WHEREAS, the result of that partnership is the “Valdese Lakeside Park Master Plan” presented to the Town Council this date for review, a copy of which shall be on permanent file in the Valdese Town Hall;

WHEREAS, any future Park progression related to this plan will be subject to available funds and approval by Town Council before proceeding.

NOW, THEREFORE, be it hereby resolved by the Town Council for the Town of Valdese, North Carolina, that the “Valdese Lakeside Park Master Plan” is hereby adopted.

READ, APPROVED, AND ADOPTED this 1st day of April, 2019.

/s/ John F. Black, Jr., Mayor
Town of Valdese

ATTEST: /s/ Frances Hildebran, Town Clerk
Town of Valdese

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

APPROVED RESOLUTION ADOPTING VALDESE LAKESIDE PARK CIP Ms. Schotte informed Council that the text of the revised Capital Improvement Plan clearly states the Town’s intent to fund the amenities only if awarded sufficient grant funds and private contributions. Ms. Schotte explained that having an adopted CIP showing the proposed amenities garners points on the grant application. Ms. Schotte presented the following resolution:

A RESOLUTION ADOPTING THE REVISED CAPITAL IMPROVEMENT PLAN AS PRESENTED

WHEREAS, the Town of Valdese has acquired the 302-acre lakeside property with assistance from local donors, Parks and Recreation Trust Fund (PARTF) and Clean Water Management Trust Fund (CWMTF); and

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WHEREAS, the Town of Valdese has partnered with Destination by Design to create a Master Plan for the new Valdese Lakeside Park designed to reflect the needs and desires of the Town and of its citizens; and

WHEREAS, the result of that partnership is the “Valdese Lakeside Park Master Plan” which makes certain recommendations for short-term investments in park development and improvement; and

WHEREAS, the Town of Valdese has a Capital Improvement Plan which prioritizes the Town’s capital investments over the next 3-5 years;

NOW, THEREFORE, be it hereby resolved by the Town Council for the Town of Valdese, North Carolina, that the Capital Improvement Plan is hereby amended to include the recommended park improvements, provided that the park improvements are funded solely through private donations and grant funds.

READ, APPROVED, AND ADOPTED this 1st day of April, 2019.

/s/ John F. Black, Jr., Mayor
Town of Valdese

ATTEST: /s/ Frances Hildebran, Town Clerk
Town of Valdese

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

AUTHORIZATION TO SUBMIT APPLICATION FOR FUNDING FROM PARTF Ms. Schotte informed Council that the adoption of the PARTF Basic Facts and Assurances, Valdese Lakeside Park Master Plan, and Valdese Lakeside Park CIP allows the Town to submit a viable application for PARTF funding. Ms. Schotte requested permission to apply for a PARTF grant in the amount of \$285,000 with the matching funds being provided from private donations and Friends of the Valdese Rec funds.

Councilman Sweezy made a motion to authorize staff to apply for the aforementioned PARTF grant, seconded by Councilwoman Stevenson. The vote was unanimous.

PUBLIC SAFETY BUILDING TEMPORARY REPAIRS Benjamin “Benjie” Thomas of West Consultants, PLLC, recommended that temporary structural supports be installed at the Public Safety Building. Mr. Thomas shared that Structural Engineer C. Michael Alberto will have a final design for the supports by May 31, 2019; at which time West Consultants can assist with preparing bidding documents. Mr. Thomas hopes to receive bids in time for presentation at the June 24, 2019 or August 5, 2019 council meeting. Mr. Thomas shared that the support system will consist primarily of pressure treated lumber and would be expected to last at least five years, with the possibility of several more years with proper maintenance.

Councilman Ogle made a motion to authorize Town Manager Seth Eckard to partner with West Consultants to solicit bids for temporary repairs to the Public Safety Building, seconded by Councilman Thompson. The vote was unanimous.

BUDGET AMENDMENT Finance Director Bo Weichel presented the following budget amendment:

Valdese Town Council Meeting

Monday, April 01,
2019

Budget Amendment #

27

Subject:

Reconcile Cash Accounts

Memorandum:

As per discussions held in previous council meetings pertaining to the subject, the following budget amendment is essential in order to appropriate the necessary funds.

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Proposed Action:

BE IT ORDAINED by the Governing Board of the Town of Valdese, North Carolina that the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2019:

Section I:

To amend the General Fund, the expenditures are to be changed as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.4200.991	Bad Debt Expense	13,162	
10.4200.040	Professional Services	1,765	
Total		\$14,927	

This will result in a net increase of \$14,927 in the revenues of the General Fund. To provide funding for the above, the following revenue budgets will be increased. These additional revenues have already been received.

Account	Description	Decrease/ Debit	Increase/ Credit
10.3010.081	2008 Ad Valorem Taxes		176
10.3010.091	2009 Ad Valorem Taxes		2,220
10.3010.101	2010 Ad Valorem Taxes		1,211
10.3010.111	2011 Ad Valorem Taxes		1,898
10.3010.121	2012 Ad Valorem Taxes		1,479
10.3010.131	2013 Ad Valorem Taxes		1,599
10.3010.141	2014 Ad Valorem Taxes		6,344
Total			\$14,927

Section I:

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 budget amendment, seconded by Councilwoman Stevenson. The vote was unanimous.

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

The next regular Council meeting is scheduled for Monday, May 6, 2019 at 6 p.m.

The Employee Appreciation Cookout is scheduled for Friday, April 5, 2019 at Children's Park from 11 a.m.-1 p.m. This cookout is sponsored by the Wellness Program.

Old Colony Players Production of Jesus Christ Superstar is scheduled for April 5-7, 12-14, 17-20, 2019. For more information or to purchase tickets, visit oldcolonyplayers.com.

The April Craft Market is scheduled for Saturday, April 13, 2019 at Old Rock School from 9 a.m.-4 p.m.

The Budget Workshop Dinner Meeting is scheduled for Monday, April 15, 2019 at Valdese Town Hall Community Room, 6:00 p.m.

The WPCOG Annual Meeting is scheduled for Thursday, April 25, 2019 at 6:00 p.m. This event is being held at the Hickory Metro Convention Center.

MAYOR AND COUNCIL COMMENTS: Councilman Ogle asked Town Manager Seth Eckard to direct staff at the Rec Center to identify ways to become self-supported. Mr. Ogle expressed a desire to capitalize on

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the buildings that the Town owns to host tournaments or various other programs to increase revenue and usage of existing facilities. Mr. Ogle informed Council that he received a phone call about issues with bowling at the Rec Center last week. Town Manager Seth Eckard said he will look into the matter.

Councilman Sweezy shared that another group walk at Valdese Lakeside Park has been scheduled for Sunday, April 7, 2019 at 2:00 p.m.

Mayor Black expressed his appreciation for the citizens who participated in the meeting. Mr. Black shared that he believes everyone has one thing in common, the desire to maintain Valdese as a great place to live, work, and play. Mr. Black continued to say that while different viewpoints exist on how to get to this common goal, at least the objective is the same.

ADJOURNMENT: At 7:38 p.m., there being no further business to come before Council, Councilwoman Stevenson made a motion to adjourn, seconded by Councilwoman Hildebran. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, May 6, 2019, 6:00 p.m., Valdese Town Hall.

Town Clerk

Mayor

ck

**TOWN OF VALDESE
TOWN COUNCIL MEETING - BUDGET WORKSHOP
APRIL 15, 2019**

The Town of Valdese Town Council met on Monday, April 15, 2019, at 6:00 p.m., in the Community Room 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 Manager Seth Eckard, Deputy Town Clerk Courtney Kennedy, Community Affairs Director Morrissa Angi, Fire Chief Charlie Watts, Police Chief Jack Moss and Finance Director Bo Weichel.

Absent: None.

A quorum was present.

Others present: Dwayne Wilson of Dwayne Wilson Insurance & Financial Services, David Hill of HR Consulting Essentials, Alison Adams and Billy Rickles of Western Piedmont Council of Governments.

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

WPCOG CODE ENFORCEMENT SOFTWARE PRESENTATION Code Enforcement Officer Billy Rickles provided Council with an interactive presentation of the software that is used by WPCOG for code enforcement. Mr. Rickles explained the process he follows when code enforcing for towns and shared that enforcement through the WPCOG contract with the Town of Valdese will be complaint driven. Alison Adams of WPCOG shared that meet-and-greets will be held with Mr. Rickles to provide citizens an opportunity to learn about him and the services he will provide for the Town.

SPECIAL EVENT ORDINANCE AND APPLICATION PRESENTATION Community Affairs Director Morrissa Angi provided an overview of a proposed ordinance and application for special events. Ms. Angi shared that she met with department heads of departments that are affected by special events to discuss how the current process works and to identify any possible issues or areas for improvement. Ms. Angi shared that staff identified a need for a more informative process to ensure public safety when special events are being held on public property and within the Downtown District. Ms. Angi will present the Special Event Ordinance and Special Event Permit Application at the May 6th Council meeting.

EMPLOYEE HEALTH INSURANCE UPDATE Mr. Wilson discussed Blue Cross Blue Shield's renewal quote and informed Council that our coverage is being discussed with other providers. Mr. Wilson is working with BCBS to reduce the projected rate increase to 18%. Mr. Wilson will update staff as soon as the quotes are received.

SPECIAL PROJECTS BUDGET & REVALUATION DISCUSSION Town Manager Seth Eckard offered an update on Town projects and reiterated that additional revenues from the revaluation of real property will be allocated for street resurfacing and repairs to the public safety building in the amount of \$25,000 and \$100,000; respectively.

FY 19-20 PROPOSED BUDGET AND HIGHLIGHTS Town Manager Seth Eckard and Finance Director Bo Weichel presented the proposed budget for FY 19-20. They reviewed the General and Utility Funds Revenues and Expenditures.

FY 19-20 PROPOSED RATE STRUCTURE & FEE SCHEDULES Town Manager Seth Eckard briefly reviewed the proposed rate structure which was also presented at the budget retreat.

PERSONNEL POLICY PRESENTATION & PAY STUDY FOLLOW-UP Mr. David Hill of Piedmont Triad Regional Council discussed proposed changes to the Town of Valdese Personnel Policy. Mr. Hill will provide pay study information to Council within the next week.

ADJOURNMENT At 8:38 p.m., there being no further business to come before Council, Councilman Sweezy made a motion to adjourn, seconded by Councilwoman Stevenson. The vote was unanimous.

The next meeting is a regularly scheduled meeting on Monday, May 6, 2019, 6:00 p.m., Valdese Town Hall.

Town Clerk

Mayor

ck

MEMORANDUM

TO: Seth Eckard, Town Manager
FROM: Kerri Poteat, VEDIC Executive Director
DATE: May 6, 2019
SUBJECT: VEDIC Bylaw Amendments

VEDIC is proposing the following Bylaw amendments and is seeking approval from the Valdese Town Council. Please see the attached Bylaws for your review.

BYLAWS
OF
VALDESE ECONOMIC DEVELOPMENT
INVESTMENT CORPORATION

ARTICLE I
OFFICE

SECTION 1.1 PRINCIPAL OFFICE. The principal office of the Corporation shall be located at such place as the Board of Directors may fix from time to time.

SECTION 1.2 REGISTERED OFFICE. The registered office required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office.

SECTION 1.3 OTHER OFFICES. The Corporation may have offices at such other places as the Board of Directors may designate or as the affairs of the Corporation may require from time to time.

ARTICLE II
MEMBERSHIP

SECTION 2.1 MEMBERS. The Corporation shall have no members.

ARTICLE III
BOARD OF DIRECTORS

SECTION 3.1 MANAGEMENT OF THE CORPORATION. The property, affairs and business of the Corporation shall be managed by the Board of Directors.

SECTION 3.2 NUMBER AND TENURE. The Corporation shall be governed by a Board of Directors consisting of twenty-two (22) members. The following nonprofit corporations and governmental entities shall appoint fourteen (14) of the directors:

1. Town of Connelly Springs. The Connelly Springs Town Council shall appoint a representative to represent the Town of Connelly Springs.
2. Town of Hildebran. The Hildebran Town Council shall appoint a representative to represent the Town of Hildebran.
3. Burke County. The Burke County Commissioners shall appoint two (2) representatives to represent Burke County.
4. City of Morganton. The Morganton City Council shall appoint a representative to represent the City of Morganton.

5. Burke County Travel and Tourism Authority. The Burke County Travel and Tourism Authority shall appoint a representative to represent the Burke County Travel and Tourism Authority.
6. Town of Rutherford College. The Rutherford College Town Council shall appoint a representative to represent the Town of Rutherford College.
7. Town of Drexel. The Drexel Town Council shall appoint a representative to represent the Town of Drexel.
8. Town of Glen Alpine. The Glen Alpine Town Council shall appoint a representative to represent the Town of Glen Alpine.
9. Town of Longview. The Longview Town Council shall appoint a representative to represent the Town of Longview.
10. Town of Rhodhiss. The Rhodhiss Town Council shall appoint a representative to represent the Town of Rhodhiss.
11. Burke County Chamber of Commerce. The Burke County Chamber of Commerce shall appoint a representative to represent the Burke County Chamber of Commerce.
12. An at large representative appointed by BDI.
13. An at large representative appointed by Western Piedmont Council of Governments.

Each of these fourteen (14) directors shall serve until such time as a replacement for that director is appointed by the governmental entity or nonprofit corporation that director represents and is qualified.

The Town Manager of the Town of Valdese shall be an ex-officio voting member of the Board of Directors. The other seven (7) directors shall be appointed by the Valdese Town Council, and they shall serve three-year staggered terms. The term of three (3) of these directors shall begin July 1, 2012; the term of three (3) of these directors shall begin July 1, 2013; and the term of two (2) of these directors shall begin July 1, 2014. Thereafter, prior to each July 1, the same number of directors whose terms are expiring shall be appointed by the Valdese Town Council. The seven (7) directors appointed by the Valdese Town Council may serve three (3) consecutive three-year terms, after which the director must be off of the board for at least one (1) year before being eligible to serve again.

SECTION 3.3 RESIGNATION. Any director, other than the Town Manager, may resign at any time by giving notice thereof in writing to the Chairman or Secretary of the corporation. Such resignation shall take effect at the time specified therein, or if no time is specified, at the time such resignation is received by the Chairman or Secretary.

SECTION 3.4 VACANCIES. In the event of a vacancy in the members of the Board of Directors appointed by the Town Council, the remaining directors shall continue to act and such vacancy shall be filled by appointment of a successor by the Town Council of the Town of Valdese. In the event of a vacancy in the members of the Board of Directors appointed by the nonprofit corporations and governmental entities, the remaining directors shall continue to act and such vacancy shall be filled by a successor appointed by the nonprofit corporations and governmental entities as provided in Section 3.2. Any director appointed by the Town Council of the Town of Valdese for the unexpired three-year term of one of the directors the Town Council appoints shall hold office for the unexpired portion of the term of the person who the newly appointed director succeeds, or until he shall resign or shall become disqualified.

SECTION 3.5 COMPENSATION. Directors and officers of the Corporation shall not receive any salary or fee for services rendered to the Corporation as a director or officer, but shall be entitled to reimbursement for reasonable expenses incurred by them on behalf of the Corporation subject to approval of the Chairman or of the Treasurer in the case of expenses incurred by the Chairman; but nothing herein shall be construed to preclude a director from serving the Corporation in any other capacity and receiving reasonable compensation therefore, subject to the approval of the Board of Directors.

SECTION 3.6 DUTIES. Each director shall discharge his duties as a director, including his duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interest of the Corporation.

ARTICLE IV MEETINGS OF THE BOARD OF DIRECTORS

SECTION 4.1 PLACE. The Board of Directors may hold meetings, both regular and special, at such place as the Board of Directors shall determine.

SECTION 4.2 REGULAR MEETINGS. Regular meetings shall be conducted at prearranged times and places for the conducting of the business of the Corporation as established by the Board of Directors. The Board of Directors shall hold a regular meeting at least once each quarter.

SECTION 4.3 ANNUAL MEETING. The Board of Directors meeting for the election of officers and the transaction of any other business shall be held during the month of July.

SECTION 4.4 SPECIAL MEETINGS. Special meetings may be called by the Chairman on at least one days' notice to each director; and special meeting shall be called by the Chairman in like manner and on like notice if requested in writing by two or more directors.

SECTION 4.5 QUORUM AND VOTING. At all meetings of the Board of Directors, a majority of the entire board shall constitute a quorum for the transaction of the business, and a vote of the majority of the directors present and voting in person shall be the act of the Board of Directors, except where the Articles of Incorporation, these Bylaws or North Carolina law

requires a greater vote. For all votes from the Loan Review Committee established under Section 6.4, a majority of that advisory committee shall constitute a quorum and a majority of the members of that committee present and voting in person or via email shall be the act of the Loan Review Committee.

SECTION 4.6 MEETING BY TELEPHONE. Any member of the Board of Directors or a committee may participate in a meeting of the Board of Directors or a committee meeting by means of a conference telephone or similar communications device which allows all persons participating in the meeting to hear each other, and such participation in a meeting shall be deemed to constitute presence in person at such meeting.

SECTION 4.7 CONSENT. Whenever a vote of directors is required or permitted to be taken in connection with any action, the meeting of directors may be dispensed with, but only if all of the directors consent in writing to such action being taken.

SECTION 4.8 REMOVAL. The Board of Directors may remove any director, other than the Town Manager of the Town of Valdese, who is absent from three (3) consecutive scheduled meetings or who is absent from more than 50% of the board meetings during any fiscal year.

ARTICLE V OFFICERS

SECTION 5.1 OFFICERS. The officers of the Corporation shall be a Chairman, a Vice Chairman, a Secretary and a Treasurer. All of the officers shall be elected from the membership of the Board of Directors.

SECTION 5.2 ELECTION. Each officer shall be elected by the Board of Directors at its organizational meeting and thereafter at its annual meeting and shall hold office until the annual meeting of the Board of Directors held next after his election or until his death or until he shall resign or shall have been disqualified or shall have been removed from office.

SECTION 5.3 REMOVAL. Any officer may be removed by a majority vote of all directors at a special meeting called for that purpose whenever in their judgment the officer's removal will be in the best interest of the Corporation.

SECTION 5.4 ADDITIONAL OFFICERS. The Board of Directors may create and elect from time to time such additional officers as in its opinion are desirable for the conduct of the business of the Corporation.

SECTION 5.5 VACANCIES. If an office becomes vacant for any reason, the Board of Directors shall fill such vacancy. Any officer so elected by the Board of Directors shall fill the unexpired term of his predecessor.

SECTION 5.6 CHAIRMAN. The Chairman shall preside at all meetings of the Board of Directors and the Executive Committee at which he may be present. The Chairman shall do and

perform such other duties as from time to time may be assigned to him by the Board of Directors.

SECTION 5.7 VICE CHAIRMAN. At the request of the Chairman, or in his absence or disability, the Vice Chairman shall perform all of the duties of the Chairman and when so acting, shall have all powers of and be subject to all restrictions upon the Chairman. The Vice Chairman shall perform such other duties and have such authority as from time to time may be assigned to him by the Board of Directors.

SECTION 5.8 SECRETARY. The Secretary shall keep the minutes of the meetings of the Board of Directors and shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. The Secretary shall be the custodian of the records, books, reports, statements, and other documents of the Corporation and seal of the Corporation, and see that the seal is affixed to all documents requiring such seal. In general, the Secretary shall perform all duties and possess all authority incident to the office of secretary, and he shall perform such other duties and have such other authority as from time to time may be assigned to him by the Board of Directors.

SECTION 5.9 TREASURER. The Treasurer shall have supervision over the funds, securities, receipts, and disbursements of the Corporation. The Treasurer shall in general perform all duties and have all authority incident to the office of treasurer and shall perform such other duties and have such other authority as from time to time may be assigned or granted to him by the Board of Directors.

SECTION 5.10 EXECUTIVE DIRECTOR. The Executive Director will manage all day to day duties associated with VEDIC in accordance with the policies and procedures and bylaws, as approved by the VEDIC Board of Directors. He or she will perform a broad variety of tasks including, but not limited to, managing the process for all loan application requests, meeting with the borrower to analyze organization and proposed project and compilation of all needed loan documents, underwrite and present to the Loan Review Committee, coordinate legal services and attend loan closings, sign loan documents on behalf of the Board of Directors, provide and oversee technical assistance, board operations, maintain records and correspondence, fund development and management, marketing, grant applications, budget officer and manage other VEDIC employees. He or she will be responsible for representing the organization in its lending and helps to set strategic direction in lending based on overall loan portfolio. The Executive Director serves at the pleasure of the Board of Directors. In the absence of the Executive Director, such duties will be given to the Chairman.

SECTION 5.11 DUTIES OF OFFICERS MAY BE DELEGATED. In the case of the absence of any officer of the Corporation or for any other reason that the Board of Directors may deem sufficient, the Board of Directors may delegate the power or duties of such officer to any other officer or to any director for such period of time as the Board of Directors may determine.

ARTICLE VI COMMITTEES

SECTION 6.1 STANDING COMMITTEES. The Board of Directors shall have the following standing committees: Executive Committee, Nominating Committee and the Loan Review Committee.

SECTION 6.2 COMPOSITION, DUTIES AND RESPONSIBILITIES OF THE EXECUTIVE COMMITTEE. The Chairman shall serve as the Chairman of the Executive Committee. The Executive Committee shall consist of the officers of the Corporation and such others as may be designated by the Chairman and approved by the Board of Directors. The duties of the Executive Committee are to advise the Chairman, Executive Director and the Board of Directors on Corporation business, review and recommend loan and grant applications and perform such other duties as may be assigned by the Board of Directors.

SECTION 6.3 COMPOSITION, DUTIES AND RESPONSIBILITIES OF THE NOMINATING COMMITTEE. The Nominating Committee shall consist of at least three (3) directors and such other persons, who need not be directors, appointed by the Chairman. The duties of the Nominating Committee are to seek out and recommend qualified individuals to serve as directors of the Corporation. The names of potential directors shall be submitted by the Nominating Committee to the Board of Directors, and the Board of Directors shall recommend individuals, who need not be persons nominated by the Nominating Committee, to the Town Council for its consideration and approval as directors of the Corporation.

SECTION 6.4 COMPOSITION, DUTIES AND RESPONSIBILITIES OF THE LOAN REVIEW COMMITTEE. The Loan Review Committee shall consist of at least five (5) members recommended by the Executive Director and appointed by the Board of Directors. The Loan Review Committee shall make recommendations as to whether to deny or approve all loan applications for which only businesses located within the VEDIC service area are eligible. See VEDIC work plan for service area details. The Board of Directors shall review and vote on such recommendations made by the Loan Review Committee.

SECTION 6.5 SPECIAL COMMITTEES. The Board of Directors may from time to time organize such other committees or advisory committees as it deems necessary to carry out the objectives of the Corporation.

SECTION 6.6 CHAIRMAN OF COMMITTEES. The Chairman shall act as Chairman of the Executive Committee. The Loan Review Committee shall elect the chairman of that committee. The Chairman shall appoint all other committee chairmen.

ARTICLE VII NOTICES

SECTION 7.1 FORM/DELIVERY. Notices to directors shall be in writing and may be delivered personally or by mail or electronic media to the director's address appearing on the records of the corporation.

SECTION 7.2 WAIVER. Whenever a notice is required to be given by these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to such notice.

ARTICLE VIII CONTRACTS, LOANS, CHECK, DRAFTS, ETC.

SECTION 8.1 CONTRACTS. The Board of Directors may authorize any officer or officers or agent or agents to enter into any contract or to execute or deliver any instruments on behalf of the Corporation, and such authority may be general or confined to specific instances. Any contract or other action that will or may result in the expenditure of more than \$10,000 of Corporation funds must be approved by the Board of Directors.

SECTION 8.2 LOANS. No loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name, unless and except as authorized by the Board of Directors. Any officer or agent of the Corporation so authorized may effect loans or advances for the Corporation and for such loans and advances may make, execute, and deliver promissory notes, bonds, or other evidences of indebtedness of the Corporation. Any such officer or agent, when thereunto so authorized, may mortgage, pledge, hypothecate, or transfer as security for the payment of any and all loans, advances, indebtedness, and liabilities of the Corporation any real property and all stocks, bonds, other securities, and other personal property at any time held by the Corporation, and to that end, may endorse, assign, and deliver the same, and do every act and thing necessary or proper in connection therewith. Such authority may be general or confined to specific instances. Any borrowing of an amount in excess of \$10,000 must be approved by the Board of Directors.

SECTION 8.3 DEPOSITS. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks or trust companies or with such bankers or other depositories as the Board of Directors may select, or as may be selected by any officer or officers or agent or agents of the Corporation to whom such power may from time to time be given by the Board of Directors.

SECTION 8.4 CHECKS, DRAFTS, ETC. All notes, drafts, acceptances, checks and endorsements or other evidences of indebtedness shall be signed by the Chairman or a Vice Chairman and by the Secretary or the Treasurer, or in such other manner as the Board of Directors may from time to time determine. Endorsements for deposit to the credit of the Corporation in any of its duly authorized depositories will be made by the Chairman or Treasurer or by any officer or agent who may be designated by resolution of the Board of Directors in such manner as such resolution may provide.

SECTION 8.5 GIFTS. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for the any special purpose of the Corporation.

SECTION 8.6 CONFLICT OF INTEREST. No board member may vote or speak to an item that they or an immediate family member may financially benefit from. Immediate family member includes: spouse, children and parents.

ARTICLE IX GENERAL PROVISIONS.

SECTION 9.1 PURPOSES. This Corporation is organized to assist the Town of Valdese in the promotion, stimulation, development and advancement of the business prosperity and economic welfare of the Town and its citizens; to encourage and assist in any lawful manner the location of new business and industry in the Town; to assist existing business and industry in the Town; and to cooperate and act in conjunction with other organizations, public and private, in the promotion and advancement of industrial, commercial, and recreational developments in the Town. Because a strong county-wide and regional economy is essential to the economic well-being of the citizens of Valdese and the surrounding counties, the Corporation is authorized to seek funding for and establish loan and grant programs to increase the business activity in the entirety of Burke County and the surrounding counties. The Corporation is also authorized to seek funding for and establish loan and grant programs serving such other North Carolina counties as the Board of Directors determines to be in the best interest of the Corporation.

SECTION 9.2 DISSOLUTION. The Corporation may be dissolved only by a two-thirds (2/3) vote of all of the members Board of Directors of the Corporation. Upon dissolution of the Corporation, the remainder of the Corporation's assets, after all liabilities and obligations of the Corporation have been paid and discharged, or adequate provisions made therefore, shall be distributed to the Town of Valdese.

SECTION 9.3 LIMITATION ON LIABILITY. No officers, director, or employee shall be liable for his actions acting in such capacity, which actions are taken in good faith, provided that such officers, directors, or employees, may be liable for gross negligence or willful misconduct. The Corporation agrees to indemnify its officers, directors, and employees for any expenses, claims, or liabilities, suffered by or against any of such persons acting in their respective capacities as officers, directors, or employees of the Corporation, to the extent permissible by law. Such indemnification shall not apply to the extent that such actions of the officers, directors, or employees constitute gross negligence or willful misconduct.

SECTION 9.4 CORPORATE SEAL. The corporate seal shall be in such form as shall be approved from time to time by the Board of Directors.

SECTION 9.5 FISCAL YEAR. The fiscal year of the Corporation shall be from July 1 to June 30.

SECTION 9.6 AMENDMENT TO BYLAWS. These Bylaws may be amended or repealed and new bylaws may be adopted by affirmative vote of a majority of the directors then holding office at any meeting of the Board of Directors; however, notice of the proposed action and text of the proposed bylaw amendment must be provided to the directors at least five (5) days before the meeting at which action on the proposed amendment is to be taken or such notice

must have been waived by all of the directors; and provided further that the bylaws relating to the appointment and tenure of the directors appointed by the Valdese Town Council and the bylaws relating to the composition, duties and responsibilities of the Loan Review Committee as provided in Section 6.4 shall not be amended without the prior written consent of the Valdese Town Council.

SECTION 9.7 GENDER. As used in these Bylaws, the masculine gender shall be deemed to include the feminine and feminine the masculine.

THIS THE 6th DAY OF MAY, 2019.

John F. Black, Jr., Mayor



TOWN OF VALDESE

NORTH CAROLINA'S FRIENDLY TOWN

P.O. BOX 339

VALDESE, NORTH CAROLINA 28690-0339

PHONE (828) 879-2120 | FAX (828) 879-2139 | TOWNOFVALDESE.COM

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:

2019 Independence Day Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on June 28, 2019 from 5:00 PM until 11:00 PM.

2019 Waldensian Festival Kickoff Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 9, 2019 from 5:00 PM until 11:00 PM.

2019 Waldensian Festival Celebration (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on August 10, 2019 from 5:30 AM until 11:00 PM.

2019 Valdese Treats in the Streets (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on October 31, 2019 from 3:30 PM until 6:30 PM.

2019 Valdese Christmas Parade (*Description of Closure: 1.19 mi. US 70 Main St from Hoyle St to Eldred St*) on December 7, 2019 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 6th day of May, 2019.

John F. Black, Jr., Mayor

ATTEST:

Town Clerk



State of North Carolina – County of Burke

Town of Valdese Lease Agreement



THIS AGREEMENT, made and entered into this First day of July, 2019, by and between the TOWN OF VALDESE, hereinafter called "Lessor" and Still Waters Counseling, Inc. hereinafter called "Lessee"; Lessor and Lessee are hereinafter referred to collectively as the "Parties".

ARTICLE 1.00

Creation of Tenancy, Term and General Conditions

- 1.01 **DEMISE OF PREMISES:** Lessor, for and in consideration of the rentals hereinafter provided and in further consideration of the covenants, conditions, and provisions hereinafter contained, does hereby demise and lease unto Lessee the property (hereinafter called "Premises") located in that building known as the Valdese Old Rock School, Main Street, Valdese, Burke County, North Carolina, and being Suite(s) 35 as described on the attached Exhibit "A," together with the right of access and use to the common areas of the building and parking, subject to the restrictions hereinafter set out.
- 1.02 **TERM:** The Lessee shall have and hold the premises for a period of time commencing the First day of July, 2019 and extending to the 30th day of June, 2020; provided, however, because the Lessee may be required to move to a new facility during the one-year term of this lease, the Lessee shall have the right to terminate this lease at any time during the one-year lease term by providing to the Lessor at least 30 days prior written notice of termination.
- 1.03 **RENT:** Lessee agrees to pay Lessor a monthly rent of \$305.00. The first month's rent shall be due and payable at the time of execution of this Lease, with each subsequent monthly rent being due and payable on the first day of the month for each and every month thereafter during the Lease term. In addition, the Lessee shall pay to the Lessor a deposit in the sum equal to one month's rent. Said sum will be held by the Lessor and applied as a payment or partial payment of any damages that might occur by reason of a default under this agreement.
- 1.04 **UTILITIES:** During the term of this Lease the Lessor shall provide heating and air conditioning Monday through Friday of each week from 8:00 A.M. until 5:00 P.M., and such other times in the Lessor's sole discretion. The Lessee shall be responsible for all other utilities, including electricity (other than lights) and telephone.

- 1.05 ^{32 of 126} **TAXES:** During the term of this Lease the Lessor shall pay any taxes which might come due on the real property, however, the Lessee shall be responsible for all taxes on the personalty located on the premises.
- 1.06 **GENERAL CONDITIONS:** This Lease is made by Lessor and accepted by Lessee subject to the following:
- 1.01.1 All zoning regulations affecting the premises now or hereafter in force.
 - 1.01.2 All ordinances, statutes, and regulations, and any presently existing violations thereof, whether or not of record.
 - 1.01.3 The existing condition and state of repair of the premises.

ARTICLE 2.00

Use of Premises

2.01 CHARACTER OF USE:

- 2.01.1 The premises shall be used by the Lessee for an Office Space and shall not be used by Lessee for any other purpose without the prior written consent of the Lessor.
- 2.01.2 Lessee covenants and agrees to comply with all legal requirements of the City, County, State and Federal Governments respecting any operation conducted, or any equipment installations or property located at the premises, and Lessee further covenants and agrees not to create or permit the creation of any nuisance on the premises, or to make any other offensive use thereof.

2.02 IMPROVEMENT AND ALTERATION OF PREMISES: Lessee shall not make, and shall not have the right to make any alterations, changes or improvements, structural, or otherwise in or to the premises without Lessor's prior written consent, provided, that if such consent is given, all such alterations, changes, and improvements shall be at Lessee's expense and shall become the property of Lessor at the termination of the Lease. The granting or denial of consent as provided for in this section shall be the subject of Lessor's sole and absolute discretion.

2.03 TRADE FIXTURES: Lessee will be permitted to install trade fixtures on the premises without necessity of written consent by Lessor, and shall be permitted to remove such fixtures upon the expiration of the Lease term, provided that the removal of such fixtures will not permanently damage the premises, and provided that Lessee shall return the premises to their condition at the commencement of this Lease.

ARTICLE 3.00

Condition of Premises

- 33 of 126
- 3.01 ACCEPTANCE OF PREMISES:** Lessee acknowledges that the act of taking possession of the premises shall constitute conclusive evidence that Lessee has inspected and examined the premises, and that the same were and are in good and satisfactory condition.
- 3.02 MAINTENANCE:** Lessee covenants and agrees to maintain said premises in their present condition, reasonable wear and tear excepted, during the term of this Lease or any extension thereof at Lessee's own cost and expense. Lessor shall maintain the roof, exterior walls, plumbing, heating and electrical system except to the extent that the same shall be damaged by the negligence, misuse or overuse by Lessee in which case Lessee shall make said repairs.
- In addition, the Lessor shall be responsible for and maintain all common areas in the building, which shall consist of halls and restrooms. The Lessee and its guests may use such common areas, but will make no business use of or store any property in any common areas.
- 3.03 PARKING:** The Lessee and its guests and/or customers, may use the parking lot adjacent to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday, and such other times subject to regulations and restrictions as may be determined by the Lessor.
- 3.04 ACCESS:** The Lessee shall have access to the building between the hours of 7:30 A.M. and 6:00 P.M. on Monday through Friday (except on Holidays) and such other times subject to regulations and the Lessor may determine restrictions. The Lessor reserves the right to secure and lock the building and otherwise limit access, as it should determine advisable during other hours.
- 3.05 CONDITIONS UPON TERMINATION:** Upon the expiration, termination or acceleration of Lessee's obligations under this Lease, Lessee shall return the premises to a condition at least as good as their condition upon the commencement of this Lease, ordinary wear and tear accepted.

ARTICLE 4.00

Insurance, Liability of Parties

- 4.01 CASUALTY INSURANCE:** Lessor shall carry, at Lessor's expense, fire insurance with extended coverage insuring loss or damage to the premises. Lessee shall be responsible for insuring Lessee's personal property on the premises.
- 4.02 LIABILITY INSURANCE:** Throughout the continuance of this Lease, Lessee shall keep the premises insured, at Lessee's sole cost and expense, against claims for personal injury or property damage under a policy of general liability insurance, with a single limit of at least \$500,000.
- 4.03 INDEMNIFICATION:** The Lessee will protect, indemnify, save and hold harmless the Lessor, its officers, agents, servants, and employees, from and against any and all claims, demands, expense, and liability, arising out of injury or property which may occur on or in the demised premises or which may arise, or in any way grow out of any act or omission of the Lessee, its (his) agents, subcontractors,

servants, and employees of the use and occupancy of the demised premises by the Lessee or anyone using or occupying said premises as a guest, patron, or invitee of Lessee.

- 4.04 WAIVERS:** Insofar as it may be permitted by the terms of the fire or extended coverage insurance policy carried by the Lessor or Lessee, each party hereby releases the other with respect to any claim (including a claim for negligence) that it might have against the other party for loss, damage or destruction with respect to its property by fire or other casualty (including rental value or business interruption, as the case may be) occurring during the term of this Lease. In the event one or both of the parties' insurance policies do not permit this waiver, such party will immediately give notice of such denial to the other party and upon such request shall cause the other party to be named in such policy or policies as one of the name insured.

ARTICLE 5.00

Termination, Default, Remedies

- 5.01 HOLDOVER TENANCY:** In the event that Lessee remains in possession after the expiration of the term hereof or the validly commenced extension thereof and without the execution of a new Lease, Lessee shall not acquire any right, title or interest in or to the premises and in such event Lessee shall occupy the premises as Lessee from month to month and be subject to all conditions, provisions, and obligations of this Lease in so far as the same shall be applicable.
- 5.02 DEFAULT OR BREACH OF COVENANT:** If Lessee shall fail to timely make any payment of rent herein provided for, or promptly perform any other covenant or obligation imposed upon it hereunder and shall fail to make good such Default within ten (10) days after written notice from the Lessor to Lessee, Lessor may enter the premises and expel Lessee therefrom without prejudice to any and all other remedies that may be available to Lessor under the laws.
- 5.03 REMEDIES ARE CUMULATIVE:** To the extent that the remedies provided for under this Lease are not clearly inconsistent, they shall be cumulative, and Lessor shall be entitled to pursue all or any part of the remedies provided herein. The remedies specified in this Lease are in addition to, and not in lieu of any remedies otherwise available to Lessor by law or in equity. Pursuit of any remedy by Lessor shall not constitute a binding election of such remedy or prevent Lessor from seeking other relief.
- 5.04 COSTS AND ATTORNEYS FEES:** In addition to any other damages sustained by Lessor as a result of Lessee's Default, Lessor shall be entitled to recover of Lessee all reasonable attorneys' fees and costs incurred in pursuit of Lessor's remedies.
- 5.05 ACCEPTANCE OF SURRENDER:** No act or conduct of Lessor, including without limitation, the acceptance of the keys to the premises shall constitute an acceptance of the surrender of the premises by Lessor before the expiration of the term. Only a Notice from Lessor to Lessee shall constitute acceptance of the surrender of the Premises and accomplish a termination of this Lease.

ARTICLE 6.00

Destruction of Taking of Premises

- 6.01 DAMAGE BY CASUALTY OR FIRE:** If said premises should be damaged or destroyed by casualty, explosion or fire, as to be unfit for Lessee's continued use, then this Lease shall thereupon be terminated and the rent for the month in which the damage occurred shall be apportioned and refunded to Lessee; but if said premises should be damaged or destroyed by casualty, explosion or fire, however caused or by the elements, or any cause or happening and still be fit for Lessee's continued use, then the same shall be promptly restored by Lessor to their previous condition and a just and fair proportion of the rent herein reserved shall abate until the same have been completely restored, and a like proportion of any rent unpaid in advance shall be refunded to Lessee.

The Lessor may, following damage as above provided, elect to terminate this Lease by providing the Lessee with written notice of its election within ninety (90) days of the occurrence of the damage.

ARTICLE 7.00

Additional Provisions

- 7.01 ASSIGNMENT AND SUBLETTING:** Lessee shall not have the right to assign or sublet the within Lease or sublet the premises in whole or in part without first obtaining the written consent of the Lessor. No approval of assignment or subletting shall be effective until the prospective assignee or Sublessee shall have given Lessor Notice acknowledging familiarity with the terms of this Lease and evidencing agreement to be bound thereby. Any assignment or subletting in violation of this provision shall be void and the discretion of the Lessor as to whether to permit such assignment or sublease is absolute.
- 7.02 RIGHT OF ENTRY:** Lessor shall have the right at all reasonable times to enter and inspect the premises, and to take any action which Lessor reasonably believes to be necessary to protect the premises from damage.

ARTICLE 8.00

Special Provisions

- 8.01 RELATIONSHIP OF PARTIES:** It is specifically understood that the parties hereto have created a Lessor-Lessee relationship with respect to the demised premises and that the Lessor shall in no way control or be responsible for the acts of the Lessee with respect to the operations carried out on the demised premises. The Lessee specifically agrees to indemnify and hold harmless the Lessor from any loss by reason of operation on the premises and it is further agreed to erect a suitable sign to be placed in a visible located on the demised premises indicating the name and ownership of the business being rented upon the property and further the Lessee agrees not to take any action that might in any way indicate any involvement by Lessor in the Lessee's business except as hereinafter set out.

ARTICLE 9.00

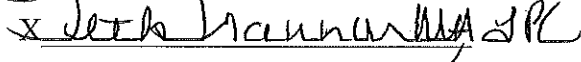
Interpretation, Execution

- 9.01 GOVERNING LAW:** The laws and decisions of the State of North Carolina will govern and control the construction, enforceability, validity, and interpretation of this Lease and of all agreements, instruments and documents heretofore, now or hereafter executed by Lessee and delivered to Lessor pertaining or relating to this Lease or the transaction contemplated herein.
- 9.02 MODIFICATION:** This Lease, together with the schedules and exhibits attached hereto, contains the full, final and exclusive statement of the Lease between Lessor and Lessee relating to the leasing of the premises and cannot be amended, altered, modified or terminated except by a written agreement signed by both Lessor and Lessee. The parties hereto specifically relinquish any rights they may have to orally rescind or otherwise terminate this Lease and acknowledge that they will not rely upon any such oral agreements.
- 9.03 SEVERABILITY:** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the term of extensions thereof, in that event it is the intention of the Parties hereto that the remainder of this Lease shall not be affected thereby.
- 9.04 CAPTIONS:** The caption of each Section is added as a matter of convenience only, and shall be considered of no effect in the construction of any provision of this Lease.
- 9.05 WORD USAGE:** Throughout this Lease, the masculine gender shall include the plural and vice versa, wherever the context requires such construction.
- 9.06 EFFECT UPON SUCCESSORS:** This Lease shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, conservators, guardians, or other legal representatives and assigns of each party.
- 9.07 MULTIPLE SIGNATURES:** If there is more than one signer (exclusive of Lessor) of this Lease, whether as Lessee or a co-signer, their obligations will joint and several, and term "Lessee" will include each such party, jointly and severally.
- 9.08 QUIET ENJOYMENT:** The Lessor agrees that Lessee on paying the stipulated rental and keeping and performing the agreement and covenants herein contained, shall hold and enjoy the premises for the term aforesaid, subject however to the terms of this Lease, and further warrants that the use of the premises called for herein do not violate the terms of any zoning affecting the premises.

X _____

Lessor

Seth Eckard, Town of Valdese (Town Manager)

X  _____

Lessee

Beth Brannon, Still Waters Counseling, Inc.

X _____

Witness (Attest)

X _____

Witness

May 6, 2019, 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 deputy 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 deputy 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 deputy 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

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

discuss or act on the item immediately.]

(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 deputy 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

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

matter by reference to a letter, number, or other designation, or other secret device or method, with the 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 deputy 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;

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

- (c) To entertain and answer questions of parliamentary law or procedure;
- (d) To call a brief recess at any time;
- (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

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

the debate according to the following general principles:

- (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

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

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 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

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

any regular or special meeting of the council by a simple majority of those present and voting, a quorum being present;

- (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.

VALDESE TOWN COUNCIL – RULES OF PROCEDURES

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 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 6, 2019, 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 _____, 2019.

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

Frances M. Hildebran, Town Clerk

Valdese Town Council Meeting

Monday, May 06, 2019

Budget Amendment #

28

Subject:

Contracted Services

Memorandum:

As per discussions held in previous council meetings pertaining to the subject, the following budget amendment is essential in order to appropriate the necessary funds.

Proposed Action:

BE IT ORDAINED by the Governing Board of the Town of Valdese, North Carolina that the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2019:

Section I:

To amend the General Fund, the expenditures are to be changed as follows:

Account	Description	Increase/ Debit	Decrease/ Credit
10.4200.450	Contracted Services	3,500	
Total		\$3,500	

This will result in a net increase of \$3500 in the revenues of the General Fund. To provide funding for the above, the following revenue budgets will be increased. These additional revenues have already been received.

Account	Description	Decrease/ Debit	Increase/ Credit
10.3010.141	2014 Ad Valorem Taxes		3,500
Total			\$3,500

Section I:

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

Valdese Town Council Meeting

Monday, May 06, 2019

Budget Amendment #

29

Subject:

Professional Services

Memorandum:

As per discussions held in previous council meetings pertaining to the subject, the following budget amendment is essential in order to appropriate the necessary funds.

Proposed Action:

BE IT ORDAINED by the Governing Board of the Town of Valdese, North Carolina that the following amendment is made to the annual budget ordinance for the fiscal year ending June 30, 2019:

Section I:

To amend the General Fund, the expenditures are to be changed as follows:

Account Description		Increase/ Debit	Decrease/ Credit
10.4200.040	Professional Services	3,260	
Total		\$3,260	

This will result in a net increase of \$3260 in the revenues of the General Fund. To provide funding for the above, the following revenue budgets will be increased. These additional revenues have already been received.

Account Description		Decrease/ Debit	Increase/ Credit
10.3290.000	Interest Earned on Investments		3,260
Total			\$3,260

Section I:

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

VALDESE FIRE DEPARTMENT

Serving The Community With Pride,
Integrity And Courage.

Charles Watts
Fire Chief / Safety Director
Post Office Box 339
121 Faet Street
Valdese, North Carolina 28690

Telephone: (828) 879-2103
Fax: (828) 879-2106

TO: Seth Eckard, Town Manager
Valdese Town Council

FROM: Chief Charles Watts, Safety Director

DATE: April 12, 2019

REF: North Carolina Department of Labor Safety Awards

The goal of the Safety Awards Program is to recognize those entities that go the extra mile to promote safety in the workplace. North Carolina's workplace safety record has continued to improve in recent years, with the illness and injury rate at an all-time low. These achievements are due in part to our Department Heads and employees working and training together to ensure that safe workplace practices are followed and safety is first and foremost in everyone's job description.

Those Town Departments receiving Safety Awards for the year of 2018 are as follows:

- Administration (31st consecutive year)
- Community Affairs (8th consecutive year)
- Fire Department (4th consecutive year)
- Public Works (1st year)
- Recreation (7th consecutive year)
- Water Department (2nd consecutive year)
- Waste Water Department (3rd consecutive year)

Particular attention should be paid to those Departments receiving consecutive Safety Awards; especially departments where accident rates are usually elevated due to the nature of their work.

Thank you.

Town of Valdese
Community Affairs

Memo

To: Mayor & Town Council

From: Morrissa Angi

cc: Seth Eckard

Date: 5/1/2019

Re: Special Events Ordinance & Application

Mayor & Town Council,

Please find the attached Special Events Ordinance and Application for your consideration at the May 6th Town Council Meeting.

The purpose of the Special Events Ordinance and Application is to enable the town to be better informed of events that take place on Public Property and certain events that take place within the Downtown District, which will help secure the public safety, health, and general welfare of town citizens.

Careful consideration has gone into the creation of the Special Events Ordinance and Application. Staff feels that as Valdese continues to grow, having a procedure of this type in place is vital to maintain the level of safety our citizens and visitors are accustomed to. With approval, staff will have policy guidance needed to aid in the preparations of Special Events.

Thank you for your consideration of this proposal.

Morrissa Angi
Valdese Director of Community Affairs & Tourism

RESOLUTION ADOPTING
TOWN OF VALDESE SPECIAL EVENT ORDINANCE

WHEREAS, the town is fortunate to be able to host more and more public events; and

WHEREAS, an ordinance that would regulate certain special events and an accompanying permit application form have been presented for the town council's consideration; and

WHEREAS, the proposed ordinance would assist the town in coordinating the scheduling of certain special events and it would enable the town to better provide for the public safety;

IT IS THEREFORE ORDAINED by the town council as follows:

1. The Special Event Ordinance (new code sections 11-1001 through 11-1005) presented to the town council at its May 6, 2019, regular meeting is hereby adopted.
2. The town council approves and adopts the Special Event Permit Application as presented. Town staff is authorized to amend this application from time to time as it determines will enable the town to better coordinate special events and provide for the safety of the public.

THIS ORDINANCE SHALL TAKE EFFECT UPON ADOPTION.

THIS, the 6th day of May, 2019.

JOHN F. BLACK, JR., MAYOR

ATTEST:

TOWN CLERK

(corporate seal)



Town of Valdese Special Event Ordinance

Section 11-1001 Purpose: The purpose of this article is to enable the town to be better informed of events that take place on Public Property and certain events that take place within the Downtown District, which will help secure the public safety, health, and general welfare of town citizens.

Section 11-1002 Definitions. The following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- a. **Applicant** is the person applying for a Special Event permit.
- b. **Downtown District** is the area running West to East from Eldred Street to Morganton Street, and North to South from Bobo Avenue to Massel Avenue.
- c. **Event Insurance** is a comprehensive general liability insurance policy with limits of at least \$1,000,000. The Event Insurance policy shall be issued by a company licensed to do business in the State of North Carolina and shall name the Town of Valdese as an additional insured. The Event Insurance policy shall cover all activities carried out at the Special Event.
- d. **Private Property** is property owned by a non-governmental agency.
- e. **Public Property** is property owned or controlled by the town or another governmental unit, including public streets, sidewalks, parking lots, parking spaces, parks, and land surrounding town or other government facilities.
- f. **Recurring Event** is an event held on Private Property in the Downtown District that occurs more than once in a calendar year. A Recurring Event takes place in the same area, has substantially the same number of attendees, does not require alcohol permitting, and does not involve Public Property. Special Event permits for a Recurring Event must be obtained annually prior to the first event.
- g. **Special Event** is a planned, outdoor event that is open to the public, that involves the gathering of persons for a common purpose, design or goal, and that (1) takes place on Public Property or causes or requires a complete or partial closure of Public Property; (2) takes place within the Downtown District and the event is reasonably expected to restrict or interfere with the right of merchants or private individuals to have access to parking areas, offices, stores, residences, or other places because of the anticipated attendance, noise level, or other factors related to the event; or (3) involves the use of mechanical rides, inflatables such as bounce houses, temporary stages, or other structures or devices that have the potential to cause injury if not properly constructed or erected or not properly maintained.

Section 11-1003 Permit

- a. **Permit Required.** It shall be unlawful for any person to conduct or assist in conducting a Special Event without first obtaining the permit required by this article and maintaining that permit at all times during the Special Event.
- b. **Exceptions.** A permit shall not be required for the following events:
 - i. Funerals.
 - ii. Merchant sidewalk sales.
 - iii. The carrying out of government functions.
 - iv. Events sponsored or substantially controlled by the town.
 - v. Events authorized by the Valdese Recreation Department or Community Affairs Department.
- c. **Application.** An application for a Special Event permit shall be completed in writing on an application form provided by the town. All required information shall be truthfully and accurately provided. The application shall be submitted to the Town of Valdese Community Affairs Department, together with the permit fee. The application will not be considered without all required supporting documents including, but not

- limited to, an Emergency Action Plan, a map of the event area, proof of Event Insurance if required, letters of permission for Private Property use, and a properly executed release and indemnity agreement.
- d. **Determination and Issuance.** In issuing any permit applied for under this article, the town official designated for such purpose may request the review of the application by other departments of the town and the official shall conduct such additional investigation as may be necessary to determine whether the permit should be issued. To allow sufficient time for review, applications for a permit must be submitted at least 60 days prior to the Special Event.
- i. **Form of permit.** Upon approval, a written permit will be given to the Applicant, which will be signed by the appropriate town employee or official.
 - ii. **Term.** Permits shall be issued for a single event only unless the Special Event qualifies as a Recurring Event.
 - iii. **Transferability.** The permit shall not be transferable or assignable.
 - iv. **Personal Liability.** The application shall be submitted by and the permit issued only in the name of the Applicant. The Applicant shall personally be responsible for the information set out in the application and for compliance with this article and with the terms and conditions of the permit. If the Applicant represents an organization, the application shall name the organization; however, the Applicant shall remain personally responsible for the accuracy of the information provided in the application and for compliance with this article and with the permit.
 - v. **Frequency.** To lessen the impact caused by closing Public Property, no permit shall be issued that allows a Public Property to be closed longer than a total of 8 hours or for more than 1 day in a calendar month.
 - vi. **Notification.** The town will reply with approval or denial of the Special Event within 30 days. If the Special Event requires a permit for alcohol or street closure, the approval of the application will be contingent upon final approval by the Valdese Town Council and all other agencies involved.

Section 11-1004 Requirements and Conditions. All Special Events shall be conducted in full compliance with the following requirements and conditions.

- a. **Permits.** All permits required for the Special Event shall be obtained and submitted to the Town of Valdese including, but not limited to, an Alcohol Beverage Control Commission permit.
- b. **Public Safety.** The Applicant shall contract with and coordinate with the town public safety department for traffic control, crowd control, security, and emergency services.
- c. **Access.** A reasonable means of access shall be provided for businesses and residences located near the Special Event and for town fire and other protective services.
- d. **Compliance.** The Applicant shall not permit the event to become a nuisance, and the Applicant shall cause the Special Event participants to comply with all applicable town ordinances, including the noise ordinance. The Applicant shall also cause the Special Event to be held in compliance with all other laws including fire safety codes and ADA access rules. All mechanical amusement rides and inflatable devices must be inspected by the NC Department of Labor, and the inspection results must be submitted to the Valdese Fire Marshal prior to operation of the rides or devices.
- e. **Indemnity.** In consideration of the town granting a Special Event permit, the Applicant shall indemnify and hold harmless the town, its officers, agents, and employees against all loss, expense or liability of any kind, including attorney fees, caused by or in any way resulting from the acts of any person attending the Special Event or in any way resulting from the activities carried on during the Special Event or from the use of the Public Property.
- f. **Event Insurance.** Event Insurance shall be required for a Special Event that involves the use of Public Property, including a street or sidewalk closure; the consumption or sale of alcohol; the use of mechanical or other amusement rides or devices; 5K, 10K, or other runs or walks; or any other potentially hazardous event as determined by the Valdese Fire Department.
- g. **Alcohol.** The sale, distribution, possession, and consumption of beer, wine, and other alcohol beverages shall be in full compliance with all state and local laws governing such matters. The consumption of

alcohol on Public Property must be approved by Valdese Town Council, and the Applicant shall be required to have the applicable permit from the NC ABC Board.

- h. **Strict Liability.** The Applicant shall assume strict liability for all damage caused to Public Property as a result of the Special Event.

Section 11-1005 ***Revocation or denial of permit.***

- a. The application for any permit may be denied and any permit issued may be revoked if:
 - i. The application contains false or misleading information or does not set forth all of the information requested;
 - ii. The Special Event is conducted in such manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare;
 - iii. The Applicant fails to obtain and maintain all permits and licenses required for the Special Event;
 - iv. The Applicant violates or is attempting to violate any of the terms and conditions of this article; or
 - v. The requested Special Event conflicts with a previously scheduled Special Event or with an event or activity sponsored by the town.



Special Event Permit Application

The purpose of this application is to provide information about your Special Event to enable the town to provide for public safety and determine the required involvement of various town departments. The Applicant is responsible for providing complete and accurate information on the application.

Submit the Special Event Application to:

Valdese Community Affairs | Old Rock School

Mailing: PO BOX 339 Valdese NC 28690 | Drop Off: 400 Main Street West Valdese, NC 28690 | Email: mangi@valdesenc.gov

*** Special Event applications must be submitted a minimum of 60 days prior to the event. ***

For Profit Events - \$75 for non-road closures & \$125 for events involving road closures

For Non-Profit Events - \$25 for non-road closures & \$50 for events involving road closures

***Permit fees are due with the submission of a Special Event application. If the Special Event is denied, the permit fee will be refunded in full.**

Do not publicize your Special Event until approval has been confirmed and a permit has been issued.

For questions regarding this application, please call Valdese Community Affairs at 828-879-2129. We will be happy to help guide you through the Special Event application process over the phone or by appointment.

Office Use Only

Date Application Received: _____ Received By: _____

Application Approved By:

Valdese Town Manager: _____ Date: _____

Valdese Police Chief: _____ Date: _____

Valdese Fire Chief: _____ Date: _____

Fire Marshal: _____ Date: _____

Valdese Public Works Director: _____ Date: _____

Valdese Community Affairs Director: _____ Date: _____

Application requires Town Council Approval: ☐ Yes ☐ No | Event requires road closures: ☐ Yes ☐ No

Event requests use of public property: ☐ Yes ☐ No

Notes: _____



Special Event Permit Application

Special Event Application Requirements

Please attach to the application:

1. **Sketch of Event Site:** The sketch shall include a complete layout for the entire Special Event area. The sketch shall include a map that shows requested street and sidewalk closures, food preparation locations, vendor locations, port-a-toilet locations, stage/entertainment areas, vendor and attendee parking areas, and evacuation routes. The sketch must include the location of all Special Event activities and show the approximate distance of those activities from the street, fire hydrants, buildings, and other structures. The sketch must also show the locations of all temporary structures related to the Special Event, and each temporary structure must be described on the sketch. The sketch must show the locations of all cooking devices/open flames, barricades, and fencing. The sketch must also clearly indicate the location of any generators & fuel storage areas.
2. **Proof of Event Insurance:** If Event Insurance is required, the Event Insurance policy shall be submitted to the Director of Community Affairs at least seven (7) days before the Special Event.
3. **Copy of permit from the North Carolina Alcoholic Beverage Control Commission, if applicable.**
4. **Release & Indemnity Agreement signed by the applicant.**



Special Event Permit Application

Applicant Information:

Name of the Special Event: _____

Applicant Name/Title: _____

Organization: _____

Mailing Address: _____

Email: _____ Phone: _____

Website/Social Media: _____

To help ensure the safety of the public, select which category best describes your Special Event location.

☐ **Special Event will be held on Private Property only.**

**By selecting Private Property only, the Applicant agrees that the Special Event will not require the closing or impediment of any public streets or sidewalks to vehicular or pedestrian traffic. Nor will the Special Event restrict or interfere with the right of merchants and private individuals, as well as the public, to have access to offices, stores, residences, or other places.*

**If the Special Event fails to be contained within the boundaries of the Private Property area in the application, the Town of Valdese reserves the right to stop the Special Event to maintain public safety.*

☐ **Special Event will be held partially or completely on Public Property. List areas of Public Property you are requesting to use for the Special Event. Examples include public parking lots, sidewalks, parking spaces, and streets.**

Please select the appropriate category for your event below:

☐ 5K/10K Walk/Run Race (Must use approved course route)

☐ Assembly/Rally

☐ Concert

☐ Festival

☐ Parade

☐ Block Party

☐ Educational

☐ Filming/Photography

☐ Performance

☐ Other: _____

Special Event Details:

☐ One Time Special Event

☐ **Recurring Special Event** – A Recurring Special Event will be considered to have all of the same needs and event details that are listed on the Special Event application. If the requirements or circumstances of a Recurring Special Event change, the Applicant must submit a new application for that changed Special Event. When will the Recurring Special Event take place? List all dates below:



Special Event Permit Application

Purpose of the Special Event:

Describe the Special Event:

Special Event Operations:

Signatures are required from all Private Property owners whose property will be used for the Special Event:

Business Name & Address: _____

Signature of Property Owner: _____ Date: _____

Business Name & Address: _____

Signature of Property Owner: _____ Date: _____

Business Name & Address: _____

Signature of Property Owner: _____ Date: _____

Date(s) of Special Event: _____

Estimated Attendance Per Event: _____ Setup Date(s): _____ Setup Times: _____

Event Start Time: _____ Event Closing Time: _____

Event Tear Down Date: _____ Event Tear Down Time: _____

On Site Contact: _____ Phone: _____

Promotion:

Is this Special Event expected to recur on an annual basis? ☐ Yes ☐ No

All planned Special Events must meet the requirements of 403.12.2 – NC Fire Code: Public Safety plan for gatherings; and any other requirements deemed necessary by the Fire Code Official to assure public safety.

Hazardous Materials:

Will the Special Event have any type of upright fuel tanks? ☐ Yes ☐ No

Will there be any portable heaters? Deep Fat Fryers? Fireworks or Pyrotechnics? ☐ Yes ☐ No

If yes, contact the Valdese Fire Marshal at 828.879.2103 for permitting information.

Sanitation:

The Applicant agrees to provide the proper amount of waste receptacles for the Special Event and arrange for the proper amount of clean up services needed to guarantee that all Public Property used for the Special Event is returned to its original condition.



Special Event Permit Application

Restrooms:

Will portable restrooms be used? ☐ Yes ☐ No Quantity: _____ Installation Date: _____ Removal Date: _____

**It is recommended that the Special Event organizer provide 4 port-a-toilets that comply with Federal ADA guidelines for every 500 attendees.*

Power Sources:

Power Source: ☐ Generator ☐ Power Distribution Box ☐ Existing Structure

Provide Contact information for person responsible for power setup: _____

If using a generator, the generator noise level cannot exceed 70 decibels.

Voice & Music Amplification:

Will you have music entertainment during your event? ☐ Yes ☐ No

Will a portable/temporary stage be used? ☐ Yes ☐ No

Inspection is required by the Valdese Fire Marshal. Date inspection is scheduled: _____ NC Fire Code: 3105.2

Will the Special Event require amplified sound? ☐ Yes ☐ No If yes --- Start Time: _____ End Time: _____

All Special Events involving noise must comply with the following noise regulations:

TOV – Section 8-6002

Mechanical Amusement Rides & Special Exhibits:

Does the Special Event include mechanical amusement rides and/or inflatables or similar devices? ☐ Yes ☐ No

If yes, describe each device, include size and manner of use of each:

All devices must be inspected by NC Department of Labor. Inspections must be shared with Valdese Fire Marshal prior to the Special Event starting.

NCDOL Inspectors conduct inspections on amusement devices operating in the State of North Carolina to ensure passenger and operator safety. Traveling devices, such as those used at fairs, are inspected before they operate at each location. Companies or individuals planning to operate amusement devices are required to submit an Advance Location Notice the NCDOL Elevator and Amusement Device Bureau at least ten (10) days before the intended date of operation.

Tents and canopies:

Will tents or canopies be used at this Special Event? ☐ Yes ☐ No (Tents – enclosed & Canopies – open on all sides)

of Tents: _____ # of Canopies: _____

Valdese Fire Marshal requires fireproof/flame retardant tents and they will be inspected. Tents must meet NFPA 701 standards. Must have manufactured tag displayed. All cooking spaces must be equipped with a fire extinguisher. (NC Fire Code: 3104.2 & 3104.3)

Town Street & Sidewalk Closures:

Will any streets or sidewalks need to be partially or completely closed? ☐ Yes ☐ No If yes, indicate the street(s) to be affected below:

Will parking spaces need to be closed? ☐ Yes ☐ No If yes, how many parking spaces: _____

Location of these spaces? _____ (These spaces must be included in the submitted Sketch)



Special Event Permit Application

Will any businesses be affected by the street being closed? ☐ Yes ☐ No

If yes, are the businesses affected aware of the proposed event? ☐ Yes ☐ No

[Town of Valdese – Section 6-2001, 6-2002, 6-2003, 6-2008](#)

Alcohol:

Will alcoholic beverage be served? ☐ Yes ☐ No *(If yes, NC Temporary ABC Permit is required)*

Will alcoholic beverages be sold? ☐ Yes ☐ No *(If yes, NC Temporary ABC Permit is required)*

What type of alcohol will be served? ☐ Draft Beer ☐ Can/Bottled Beer ☐ Wine ☐ Liquor

Who will be serving the alcohol? _____

List times alcohol will be served: _____

List locations where alcohol will be served: _____

Have you applied for a NC Temporary ABC Permit? ☐ Yes ☐ No

***A copy of all the required ABC Permits for your Special Event must be shared with the Valdese Police Department prior to your Special Event!**

REQUIRED: A minimum of 2 Off-Duty Valdese Police Officers are required for the duration of any Special Event involving a partially or completely closed street or sidewalk or involving the consumption of alcohol. The Applicant is responsible for scheduling and paying the off-duty officers.

Does the Special Event include vendors? ☐ Yes ☐ No If the Special Event includes food vendors, please check all that apply: ☐ Served ☐ Sold ☐ Free ☐ Catered ☐ Prepared Outdoors

Does the Special Event include food cooking areas? ☐ Yes ☐ No (Gas, Electric, Charcoal, & Other): _____

Special Event Schedule of Logistics - Please provide a detailed schedule of the Special Event activities including dates & times for entertainment, ride start and finish times, and vendor arrival and departure times. If the Special Event requires an extended time frame for setup, include details with a timeline listing the times and locations where streets or other Public Property will be affected & when dismantling will be completed.

Date	Time	Action	Notes

I have read and agree to comply with all applicable town ordinances and with the requirements set forth in this application. I understand that any violation may result in event shutdown by the Valdese Police Department.

Applicant Signature: _____ **Date:** _____



Special Event Permit Application

REQUIRED – An Emergency Action Plan is required for all Special Events. Please complete the following part of the application to ensure public safety during your proposed Special Event.

EMERGENCY ACTION PLAN (EAP)

Special Event Name: _____ Event Date: _____

Location (Include address and all areas that will be used during the Special Event):

- This EAP predetermines actions to take before and during the Special Event in response to an emergency or other hazardous condition.
- Flexibility must be exercised when implementing the EAP because of the wide variety of potential hazards that exist for a Special Event. These hazards include, but are not limited to, Fire, Medical Emergencies, Severe Weather, or situations where Valdese Police are required.

Plan:

A Special Event representative must be identified as the EAP point of contact person for all communications regarding the Special Event.

Primary Contact: _____ Phone: _____

Secondary Contact: _____ Phone: _____

Emergency Notification: In the event of an emergency, notification of the emergency will be through the use of 911. The caller should have the following information available to give to the 911 operator: nature of emergency, location of event, and the name of the contact person with callback number.

Emergency Medical Services: Special Event organizers must provide emergency medical services based on the following:

- For 49-299 attendees: **provisions & responsibility for accessing 911.**
- For 300-1,000 attendees: **provisions & responsibility for accessing 911, basic first aid station staffed by persons trained in basic first aid.**
- More than 1,000 attendees: **First Aid Station(s) staffed by NC certified EMTs or Paramedics from the Valdese Fire Department, access locations for emergency vehicles.**

****The Valdese Fire Chief or his designee must approve all personnel providing emergency medical services.****

Medical Emergencies:

- As with any outdoor event, there is potential for injury to the participants. The types of injuries are various and include those that are heat related as well as traumatic injuries.
- Should an incident occur that requires Emergency Medical Services, call 911. The caller should have the following information ready: the nature of emergency, the precise location, and the contact person with callback number.



Special Event Permit Application

Severe Weather:

- Weather forecasts and current conditions must be monitored by Special Event personnel.
- Before the Special Event – If severe weather is predicted, the EAP point of contact person must evaluate the conditions and determine whether the Special Event should remain scheduled. The EAP point of contact person shall be responsible for monitoring weather conditions before and during the Special Event.
- During the Special Event – If severe weather occurs during the event, the EAP point of contact person shall notify those attending the Special Event that a hazardous weather condition exists and direct them to shelter.
- The Special Event shall follow the 30-30 Rule for lightning. If lightning is observed and thunder is heard within 30 seconds, the Special Event will be delayed until 30 minutes have passed since thunder was last heard.

Fire:

- Has a specific hazard been identified that would increase the risk of fire at the Special Event? ☐ Yes ☐ No If yes, what has been identified: _____
- The use of open flame for grilling is permitted under the Fire Code when the following conditions are met:
 - Must have a valid fire extinguisher, 2A10BC or Class K and Special Event personnel must be trained to use it.
 - Each food vendor is allowed 1 LP tank per cooking device and only 1 spare LP tank regardless of the number of cooking devices. All LP tanks are to be secured in a manner approved by the Valdeese Fire Marshal. Examples include tanks that are tied, strapped chained, etc.
 - All tents/canopies used for cooking shall have a FLAME SPREAD certification attached to the tent.
- Should an incident occur that requires the Fire Department, 911 should be used to request this resource. The caller should have the following information available to give to the 911 operator: nature of emergency, event location, and contact person with a callback number.

Law Enforcement:

- Law Enforcement is required for any Special Event involving a road closure or the consumption of alcohol.
- Has a need for Law Enforcement presence been identified for this event? ☐ Yes ☐ No
- Should an incident occur that requires Law Enforcement, contact an officer if one is present or nearby to request this resource, or call 911. The caller should have the following information ready: nature of emergency, precise location, and contact person with callback number.

Emergency Vehicle Access:

- Access for Emergency Vehicles shall be maintained at all times.



Special Event Permit Application

- Fire Lanes and Fire Hydrants shall not be obstructed.
- Participants and spectators shall be directed to park in approved areas and to not obstruct protective features, sidewalks, or public thoroughways.
- Parking area for vendor and staff vehicles will be in the following locations:

- Parking for attendee vehicles will be in the following locations:

Emergency Contact Information

To Report a Fire, Medical or Police Emergency

911



Special Event Permit Application

Release & Indemnity Agreement

THIS RELEASE AND INDEMNITY AGREEMENT (Agreement), is entered into by THE TOWN OF VALDESE, a North Carolina Corporation (Town) and _____, whose address is _____, _____ County, North Carolina (Applicant).

WITNESSETH:

WHEREAS, Applicant has filed application for a Special Event permit with the Town; and

WHEREAS, as a condition of the Town allowing Applicant to conduct the Special Event set forth in the Special Event permit application, the Town has required Applicant to release and indemnify the Town as outlined in this Agreement; and

WHEREAS, Applicant has agreed to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and for other good and sufficient consideration, the receipt of which is hereby acknowledged, Applicant agrees as follows:

1. Applicant hereby releases the Town, its officers, agents, and employees from any and all claims, damages, injuries, or rights of actions that Applicant may have by reason of the Special Event being conducted by Applicant.
2. Applicant shall indemnify and hold harmless the Town, its officers, agents, and employees against all loss, expense, or liability of any kind, including attorney fees, caused by or in any way resulting from the act of any person attending the Special Event or in any way resulting from the activities carried on during the Special Event or from the use of Public Property.

This the _____ day of _____, 20_____.

Applicant



Special Event Permit Application

Ordinances & NC Fire Code

403.12.2 – NC Fire Code: Public Safety plan for gatherings: *Where the fire code official determines that an indoor or outdoor gathering of persons has an adverse impact on public safety through diminished access to buildings, structures, fire hydrants and fire apparatus access roads or where such gatherings adversely affect public safety services of any kind, the fire code official shall have the authority to order the development of or prescribe a public safety plan that provides an approved level of public safety and addresses the following items:*

1. *Emergency Vehicle Ingress & Egress*
2. *Fire Protection*
3. *Emergency Egress or Escape Routes*
4. *Emergency Medical Services*
5. *Public Safety Assembly Areas*
6. *The directing of both attendees and vehicles, including the parking of vehicles*
7. *Vendor and concession distribution*
8. *The need for presence of law enforcement*
9. *The need for fire and emergency medical services personnel*

3105.2 – NC Fire Code: Temporary Stage Canopies: Approval. Temporary stage canopies in excess of 400 square feet (37m²) shall not be erected, operated or maintained for any purpose without first obtaining approval and a permit from the *fire code official* and the building official.

3104.2 – NC Fire Code: Temporary & Permanent Tents & Membrane Structures: Flame propagation performance treatment. Before a permit is granted, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory certifying that the tents and membrane structures and their appurtenances; sidewalls, drop s and tarpaulins; floor coverings, bunting and combustible decorative materials and effects, including sawdust where used on floors or passageways, are composed of material meeting the flame propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 70 or shall be treated with a flame retardant in an approved manner and meet the flame propagation performance criteria of Test Method 1 or Test Method 2, as appropriate, of NFPA 701, and that such flame propagation performance criteria are effective for the period specified by permit.

3104.3 – NC Fire Code: Temporary & Permanent Tents & Membrane Structures: Label. Membrane structures or tents shall have a permanently affixed label bearing the identification of size and fabric or material type.

Town of Valdese – Section 8-6002: Same; noises expressly prohibited – *The following acts, among others, are declared to be loud, disrupting and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely: 1. The sounding of any horn or single device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching.*

Town of Valdese – Section 6-2001: Assembly on a Sidewalk – *Except as provided in Article C of this chapter, all persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street, and all persons so collecting and standing shall disperse and move upon the demand of any police officer.*

Town of Valdese – Section 6-2002: Display of Goods Prohibited – *No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of said town, which shall extend out onto the sidewalks.*

Town of Valdese – Section 6-2003: Placing Objects on streets and sidewalks: *No brick, stone or wood or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alley ways, streets or other routes of the town, nor shall any person place on or in any of the streets, sidewalk or alley ways of the town any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind. Provided that any person erecting a building may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.*

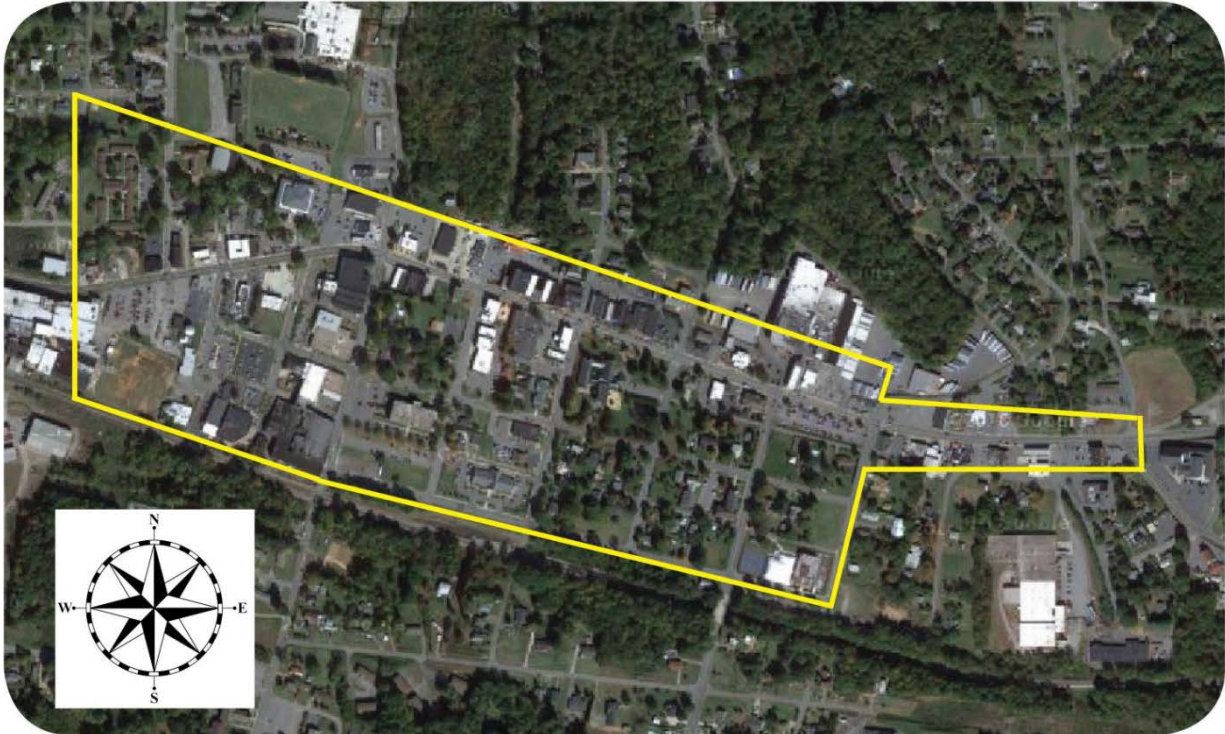
Town of Valdese – Section 6-2008: Obstructions Generally: *It shall be unlawful to build, erect, construct or place any porch, steps, fence, wall or other obstruction whatsoever in or over any of the streets or sidewalks right-of-way; and it shall be unlawful to obstruct any sidewalk or street with any wheelbarrow, automobile, truck or other vehicle, railroad car, chair, bench, open gate, chicken coop, box or other article; provided, further, than this section shall not apply to baby carriages and invalid chairs rolled on the sidewalk in such a manner as not to obstruct the same; provided further, that this section shall not apply to benches erected by the town.*



Special Event Permit Application

Exhibit A – Downtown District Map

Valdese Main Street - Downtown District



West to East: Morganton Street to Eldred Street | North to South: Bobo Ave to Massel Ave

AGREEMENT BETWEEN THE
WESTERN PIEDMONT COUNCIL OF GOVERNMENTS AND
THE TOWN OF VALDESE
FOR THE PROVISION OF
CODE ENFORCEMENT SERVICES:
May 1, 2019 – June 30, 2021

This AGREEMENT, entered into on this the first day of May 1, 2019, by and between the Western Piedmont Council of Governments (hereinafter referred to as the "Planning Agency") and the Town of Valdese, North Carolina (hereinafter referred to as the "Local Government"); WITNESSETH THAT:

WHEREAS, the Planning Agency is able to provide support and technical assistance by offering code enforcement services. Technical assistance shall consist of the provision of services as described in Attachment A, which is herein made a part of this Contract;

WHEREAS, the Local Government has requested the Planning Agency to provide such technical assistance to the Local Government and;

WHEREAS, the Planning Agency desires to cooperate with the Local Government in every way possible to the end that the proposed activities are carried out in an efficient and professional manner;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Personnel.** That during the period of this Contract, the Planning Agency will furnish the necessary trained personnel to the Local Government.
2. **Travel/Printing.** The Local Government will pay for expenses related to conferences, conventions, seminars, local travel, etc. of the personnel when the Local Government requests or approves travel related to the Local Government's planning program, or if it is beneficial to both parties, the costs will be shared on an agreed-upon ratio.

The Local Government will also pay for expenses related to printing of report(s), mailings to advisory boards, and other costs not related to normal travel and staffing costs associated with personnel furnished by the Planning Agency.

3. **Compensation.** That for the purpose of providing the funds for carrying out this Contract, the Local Government will pay the Planning Agency a fee not to exceed **\$56,669.22** (Fifty-six thousand six hundred sixty-nine dollars and twenty-two cents) during the period beginning **May 1, 2019 and ending June 30, 2021.**

This includes **4,359.18** (four thousand three hundred fifty-nine dollars and eighteen cents) during the period beginning May 1, 2019 and ending June 30, 2019. The fees will be billed in two equal monthly payments of **2,179.59** (two thousand one

hundred seventy-nine dollars and fifty-nine cents).

This includes **\$26,155.02** (twenty-six thousand one hundred fifty-five dollars and two cents) during the period beginning July 1, 2019 and ending June 30, 2020. These fees will be billed in twelve equal monthly payments of **\$2,179.59** (two thousand one hundred seventy-nine dollars and fifty-nine cents).

For the second year, the Local Government will pay the Planning Agency a fee not to exceed **\$26,155.02** (twenty-six thousand one hundred fifty-five dollars and two cents) during the period beginning July 1, 2020 and ending June 30, 2021. These fees will be billed in twelve equal monthly payments of **\$2,179.59** (two thousand one hundred seventy-nine dollars and fifty-nine cents).

4. **Modifications.** The Local Government may terminate the Contract by giving the Planning Agency a one hundred and eighty-day (180) written notice. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written consent of the other.
5. **Time of Performance.** The Planning Agency shall ensure that all services required herein shall be completed and all required reports, maps, and documents submitted during the period beginning May 1, 2019 and ending June 30, 2021.
6. **Legal Actions and Costs.** Attorney's fees, court costs, and all other applicable legal fees that may arise from the Planning Agency carrying out the duties required in the enforcement and mitigation of nuisances and code violations shall be the responsibility of the Local Government. The Local Government retains the discretion to pursue or not pursue legal action against parties responsible for code violations in the Local Governments' jurisdiction.
6. **Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials.** No member, officer, or employee of the Planning Agency or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.
7. **Nondiscrimination Clause.** No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination with any program or activity

funded in whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.

8. **Age Discrimination Act of 1975, as amended.** No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.
9. **Section 504, Rehabilitation Act of 1973, as amended.** No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

IN WITNESS WHEREOF, the Planning Agency and the Local Government have executed this Agreement as of the date first above written.

LOCAL GOVERNMENT:
TOWN OF VALDESE

PLANNING AGENCY:
WESTERN PIEDMONT COUNCIL OF GOVTS.

By: _____
Mayor

By: _____
Executive Director

PLANNING AGENCY:

By: _____
Town Manager

By: _____
Chairman

Pre-audit statement:

This instrument has been pre-audited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

By: _____
Local Government Finance Officer

ATTACHMENT A
TOWN OF VALDESE
CODE ENFORCEMENT SERVICES:
May 1, 2019 – June 30, 2021

WORK PROGRAM/BUDGET

The following work program and budget are presented as descriptive of the work and dollar amounts called for in the agreement concerning code enforcement services by the Western Piedmont Council of Governments for the Town of Valdese. These code enforcement services shall include:

- Trained WPCOG code enforcement officers to receive complaints, identify violations, conduct site visits and investigations, issue code violation warning letters and notices of violations, working with property owners and other parties responsible for code violations, assessing civil fines to violators as appropriate, and filing property liens as necessary.
- WPCOG vehicle, fuel, equipment, and supplies for WPCOG staff to carry out the code enforcement services
- Management and supervision of WPCOG code enforcement personnel
- Tracking of cases and monthly code enforcement activity reports provided to the local government
- Live online mapping of cases available to selected local government officials
- Standardized and consistent enforcement process
- Minimum housing enforcement
- Overgrown properties enforcement
- Junked vehicles enforcement
- Illegal dumping enforcement
- Junk accumulation on residential and non-residential properties
- Review of existing codes for potential updates
- Other nuisance-related issues not including zoning/land use code enforcement

RESOLUTION AMENDING CHAPTER 1 OF PART 9
OF THE CODE OF ORDINANCES OF THE TOWN OF VALDESE

IT IS HEREBY RESOLVED that Chapter 1 of Part 9 of the Code of Ordinances is amended to read as follows:

“PART 9 – PLANNING AND REGULATION OF DEVELOPMENT

CHAPTER 1 – BUILDING REGULATION

ARTICLE D. –MINIMUM HOUSING STANDARDS

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

Sec. 9-1061. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit" and "premises" are used in this article, they shall be construed as though followed by the words "or any part thereof."

Accessory building or outhouse means a building or structure the use of which is incidental to that of the main building or structure and which is located on the same lot or a contiguous lot.

Alter or alteration means any change or modification in construction or occupancy.

Basement means a portion of a building located completely underground or partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

Building means any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. The term "building" shall be construed as if followed by the words "or part thereof."

Cellar means a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Code Official/Code Enforcement Officer means the official, or code enforcement officer, or other person charged with the administration and enforcement of this article or duly authorized representative.

Dwelling means any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any temporary dwelling or any manufactured home or mobile home, which is used solely for a seasonal vacation purpose. "Manufactured home" or "mobile home" means a structure as defined in G.S. § 143-145(7).

Dwelling unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

Exit means a clear and unobstructed way of departure from the interior of a building or structure to the exterior at street or grade level.

Extermination means the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the code enforcement officer.

Floor area means the total area of all habitable space in a building or structure.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments and laundries.

Infestation means the presence, within or around a dwelling of any insects, rodents or other pests.

Multiple dwelling means any building or portion thereof which is designed, built, rent, leased, let or hired out to be occupied or which is occupied as the home or residence of more than two (2) families living independently of each other and doing their own cooking in the building, and shall include flats and apartments.

Occupant means any person living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Openable area means that part of a window, porch or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Operator means any person who has the charge, care or control of a building or part thereof in which dwelling units or rooming units are let.

Owner means any person who, alone or jointly, or severally with others:

- (1) Has title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Has the charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article, and of rules and regulations adopted pursuant thereto, to the same extent as if he is the owner.

Parties in interest means all individuals, associations and corporations who have interest of record in a dwelling, and any who are in possession thereof.

Plumbing means and includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar supply fixtures, together with all connections to water, sewer or gas lines.

Premises means a lot, plat or parcel of land, including the buildings or structures thereon.

Public authority means any housing authority, or any official in charge of any department or branch of the government of the Town, the county or the state relating to health, fire or building regulations, or to other activities concerning housing in the Town.

Rooming/Boarding house means any dwelling or that part of any dwelling containing one (1) or more rooming units, in which space is let by the owner or operator to two (2) or more persons,

who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

Rooming unit means any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating.

Removal means the demolition and removal of the entire building, leaving the premises free and clear of any debris; any excavation properly filled in and with no holes or pockets which retain water.

Rubbish means combustible or noncombustible waste materials except garbage, including but not limited to, the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust, and discarded appliances.

Story means that part of a building between one (1) floor and the floor or roof next above.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term "structure" shall be construed as if followed by the words "or part thereof."

Substandard means any condition existing in any housing or structure which does not meet the standards of fitness of this article.

Supplied means paid for, furnished or provided by, or under the contract of, the owner or operator.

Temporary housing means any tent, trailer or other structure used for human shelter which is designed to be transportable (i.e. Motor home) and which is not attached to the ground, to another structure or to any utilities system on the same premises legally for more than sixty (60) consecutive days.

Unfit for human habitation means that conditions exist in a dwelling which violate or do not comply with one (1) or more of the minimum standards of fitness established by this article.

Ventilation means the insufflation and the exsufflation of air by natural means to and from housing.

Ventilation, mechanical means ventilation by power-driven devices.

Ventilation, natural means ventilation by opening to outer air through windows, sky-lights, doors, louvers or stacks with or without wind-driven devices.

Sec.9-1062. - Findings; purpose.

The Town Council finds and declares that there now exists in the Town and its one-mile jurisdiction and may reasonably be expected to exist in the future, housing which is unfit for human habitation because of dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, adequate lighting or sanitary facilities; or because of conditions rendering such housing unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the Town and its area of jurisdiction; and that a public necessity exists to exercise police powers of the Town pursuant to G.S. § Ch. 160A, art. 19, and other applicable laws, as now or hereafter amended, to cause the repair and rehabilitation, closing or demolishing of such housing in the manner provided in this article; and pursuant to the exercise for the police power, the Town Council finds as fact and so declares that the ensuing sections of this article are necessary to the implementation of its purposes hereinabove declared in this section and that, specifically, but without limitation, the minimum standards of fitness for dwellings and dwelling units, as enacted in this article are reasonable and

necessary for this community and are all reasonable and necessary criteria for determining whether dwellings and dwelling units in this Town are fit for human habitation.

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

Sec. 9-1063. - Conflicts.

The provisions of this article shall not be construed to conflict with any other applicable laws, codes or ordinances pertaining to housing, but are supplemental thereto and where the provisions of this article are similar to provisions of other applicable codes or ordinances, the more stringent provisions shall apply.

Sec. 9-1064. - Scope.

- (a) Every building used in whole or in part as a dwelling unit or as two (2) or more dwelling units, or as a rooming house or boardinghouse, shall conform to the requirements of this article irrespective of the primary use of such building, and irrespective of when such building may have been constructed, altered or repaired.
- (b) This article establishes minimum standards for occupancy and does not replace or modify standards otherwise established for construction, replacement or repair of buildings except such as are contrary to the provisions of this article.
- (c) In addition to the exercise of police power authorized in this article with respect to dwellings, the Town shall cause to be repaired, closed or demolished any abandoned structure which the Council finds to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous condition constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. The repair, closing or demolition of such structures shall be pursuant to the same provisions and procedures as are prescribed in this article for the repair, closing or demolition of dwelling found to be unfit for human habitation.

Sec. 9-1065. - Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action, or otherwise, or to enforce this article by criminal process or otherwise, and the enforcement of any remedy provided in this article shall not prevent the enforcement of any other remedy or remedies provided in this Code or in other ordinances or laws.

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

Sec. 9-1066. - Right of access.

- (a) For the purpose of making inspections, the code enforcement officer is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit, or the person in charge thereof, shall give the official free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination, and survey.
- (b) Every occupant of a dwelling or dwelling unit shall give the owner thereof, or agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to

effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this chapter.

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

Sec. 9-1067. - Methods of service of complaints and orders.

Complaints or orders issued by the official shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the official, he shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper, printed and published in the Town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

Sec. 9-1068. - Compliance.

Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the requirements of this article. No person shall occupy as a human habitation any dwelling or dwelling unit which does not comply with all of the requirements of this article.

Sec. 9-1069. - Space use.

The minimum standards for space use are as follows:

- (1) A principal area shall not have less than one hundred fifty (150) square feet.
- (2) A kitchen-dining room combination, if any, shall have not less than one hundred (100) square feet.
- (3) A first bedroom, if any, shall have not less than one hundred (100) square feet.
- (4) A second bedroom, if any, shall have not less than seventy (70) square feet.
- (5) Each habitable room shall have at least seventy (70) square feet.
- (6) At least one hundred fifty (150) square feet of floor space in habitable rooms shall be provided for the first occupant in each dwelling unit; at least one hundred (100) square feet of additional floor space shall be provided for each of the next three (3) occupants; and at least seventy-five (75) square feet of additional floor space shall be provided for each additional occupant over the number of four (4) (children one (1) year of age and under shall not be counted).
- (7) At least seventy (70) square feet of bedroom floor space shall be provided for the first occupant; at least twenty (20) square feet of additional bedroom floor space shall be provided for the second occupant; and at least thirty (30) square feet of additional bedroom floor space shall be provided for each occupant over the number of two (2) (children one (1) year of age and under shall not be counted).
- (8) Those habitable rooms which must be included to meet the foregoing minimum space standards shall be at least seven (7) feet wide in any part with at least one-half of the floor area having a ceiling height of at least seven (7) feet. That portion of any room where the ceiling height is less than five (5) feet shall not be considered as part of the floor area.
- (9) No basement space shall be used as a habitable room or dwelling unit unless:
 - (a) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.
 - (b) The total of window area in each room is equal to at least the window area sizes prescribed in the following section for habitable rooms.
 - (c) The total of functionally opening window area in each room is equal to at least the room area prescribed in the following section for habitable rooms, except where there is supplied some other device affording adequate ventilation approved by the director of inspections.
- (10) Toilet and bathing facilities shall be structurally enclosed and shall be located so as not to require passage through an openable area.
- (11) Bathroom walls, toilet room walls and bedroom walls shall have no holes or excessive cracks.

- (12) Access shall be provided to all rooms within a dwelling unit without passing through a public space or another dwelling unit.
- (13) Doors shall be provided at all doorways leading to bedrooms, toilet rooms, bathrooms and at all rooms adjoining a public space.
- (14) Each living unit shall have a specific kitchen space, which contains a sink with counter workspace and has hot and cold running water and adequate space for storing cooking utensils.
- (15) Electric, water and sewer must be in working order.

Sec. 9-1070. - Light and ventilation.

The minimum standards for light and ventilation are as follows:

- (1) Every habitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be eight (8) percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstruction structures are located less than five (5) feet from the window and extend to a level above that of the ceiling of the room, they shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) percent of the total floor area of such room.
- (2) Every room in a dwelling unit and means of egress shall be sufficiently illuminated so as to provide safe and satisfactory uses.
- (3) Year-round mechanically ventilating systems may be substituted for windows, as required herein, but must be approved by the code enforcement officer, in rooms other than rooms used for sleeping purposes.
- (4) All outside windows and doors used for ventilation shall be screened.
- (5) All windows and doors shall be made weather tight.
- (6) Windows and doors shall have no broken glass and shall have adequate operable locks and hardware.
- (7) Openable window area in each toilet room shall be at least two (2) square feet, unless served by mechanical ventilation.
- (8) Natural ventilation of spaces such as attics and enclosed non-basement space shall be provided by openings of sufficient size to overcome dampness and to minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics.
- (9) Utility spaces containing heat-producing, air-conditioning and other equipment shall be ventilated according to manufacturer's requirements.
- (10) Mechanical ventilation shall be of sufficient size to eliminate dampness and odors of the area it is serving.

Sec. 9-1071. - Exits.

- (a) Two (2) main exits, each at least thirty (30) inches wide and six (6) feet eight (8) inches high, easily accessible to the occupants of each housing unit, shall be provided, unless a single

exit is permitted as an exception by provisions of the state building code, as from time to time amended. All exit doors shall be easily operable.

- (b) Platforms, steps and/or handrails shall be provided to serve exits and maintained in a safe condition.

Sec. 9-1072. - Plumbing.

The minimum plumbing standards are as follows:

- (1) The plumbing systems shall be connected to the Town sanitary sewer system, where available; otherwise, the plumbing system shall be connected onto an approved septic tank.
- (2) All plumbing fixtures shall meet the standards of the Town plumbing code and shall be maintained in a state of good repair and in good working order.
- (3) There shall be provided a hot water heater (minimum thirty-gallon capacity) furnishing hot water to each tub or shower, lavatory and kitchen sink.
- (4) Installed water supply inside the building shall be provided for each housing unit.
- (5) Installed water closet, tub or shower, lavatory and sink shall be provided for each dwelling unit.
- (6) Separate toilet facilities shall be provided for each dwelling unit.
- (7) Toilet and bathing facilities shall be structurally protected from the weather.
- (8) All water piping shall be protected from freezing by proper installation in protected space.
- (9) At least one (1) main vent of a minimum diameter of two (2) inches shall be properly installed for each building.
- (10) Sewer and water lines shall be properly supported with no broken or leaking lines.

Sec. 9-1073. - Heating.

The minimum heating standards are as follows:

- (1) Reserved.
- (2) Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms and bathrooms in every dwelling unit located therein to a temperature of at least sixty-eight (68) degrees Fahrenheit at a distance three (3) feet above floor level, under ordinary minimum winter conditions.
- (3) All gas-heating and oil-heating equipment installed on the premises shall be of a type approved by Underwriters' Laboratories or by the American Gas Association and shall be installed in accordance with the provisions of the state building code.
- (4) Liquid fuel stored on the premises shall be stored in accordance with the provisions of the National Fire Prevention Association standards.
- (5) Chimneys and fireplaces shall have no loose bricks.
- (6) Flues shall have no holes.
- (7) There shall be no hanging masonry chimneys.
- (8) Thimbles shall be grouted in tight.

- (9) Thimbles shall be installed high enough for stovepipe to rise one-fourth inch per foot minimum.
- (10) Hearths shall be at least twenty (20) inches deep and seven (7) inches beyond each side of the fireplace opening.
- (11) No combustible materials shall be within seven (7) inches beyond each side of the fireplace opening.
- (12) If the fireplace opening is closed because of hazardous conditions, the closure shall be of masonry or other approved material as determined by the code enforcement officer.
- (13) Any stove shall be within six (6) feet of the thimble serving it.
- (14) Stovepipes and vents shall comply with volume 3 of the state building code.
- (15) No unvented combustible space heaters shall be used.

State Law reference - G.S. §136-443.1

Sec. 9-1074. - Electricity.

The minimum electrical standards are as follows:

- (1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles, which shall be connected in such manner as determined by the *National Electric Code*, as adopted by the Town.
- (2) No receptacles, ceiling fixtures or other fixtures shall be broken or hanging loose.
- (3) All toggle switches and fixtures shall be safely operable.
- (4) At least two (2) duplex convenience outlets, as remote from each other as practicable, shall be provided per habitable room.
- (5) At least one (1) light outlet in each bathroom, hall, kitchen and porch, and over exterior steps to the second floor shall be provided.
- (6) There shall be no bare wires, open joints or spliced cables.
- (7) Flexible cords shall not be used as a substitute for the fixed wiring of a structure, nor shall flexible cords be run through holes in walls, ceilings or floors, through doorways, windows, or similar openings, or be attached to building surfaces or concealed behind building walls, ceilings or floors.
- (8) No branch circuits shall be overloaded.
- (9) A minimum of three (3) branch circuits, plus separate circuits for each fixed appliance, shall be provided in each dwelling unit.
- (10) There shall be provided service equipment and a lighting panel of adequate capacity and size (minimum of sixty-ampere capacity) to accommodate the existing or the required number of branch circuits, and the equipment shall be properly grounded.
- (11) Outlets in kitchens and bathrooms shall be ground-fault interrupter device protected.
- (12) All residences shall have a smoke detector on each livable floor. The property owner shall be responsible for installing a fresh battery with change in tenants; the tenant shall be responsible for maintaining the unit and shall not commit any act that shall render the unit inactive.

- (13) All rental dwelling units having a fossil fuel burning heater or appliance or fireplace shall provide a minimum of one operable carbon monoxide detector per unit per level. A carbon monoxide detector is also required for an attached garage. The landlord shall install, replace or repair the carbon monoxide monitor(s) unless the landlord and tenant have a written agreement to the contrary.

Sec. 9-1075. - Structural requirements.

The minimum structural standards shall be as follows:

(1) *Foundation:*

- a. A foundation shall support the building at all points and shall be free of holes and cracks which admit rodents, water or dampness to the interior of the building or which lessen the capability of the foundation to support the building.
- b. The foundation shall be on firm, reasonably dry ground, and there shall be no water standing or running under the building.
- c. Footings shall be sound and have adequate bearing capacity.
- d. Piers shall be sound.
- e. No wood stiff knees or other improper piers shall be allowed.
- f. All structures shall be underpinned or enclosed in an approved manner, such as aluminum, galvanized, asbestos or masonry.

(2) *Floors:*

- a. No rotted or termite-damaged sills shall be allowed.
- b. No broken, overloaded or sagging sills shall be allowed.
- c. Sills shall be reasonably level.
- d. Sills shall be properly and sufficiently supported.
- e. Sills shall clear the ground by at least eighteen (18) inches.
- f. No rotted or termite-damaged joists shall be allowed.
- g. No broken or sagging joists shall be allowed.
- h. Flooring shall be weather tight without holes or cracks which permit air to excessively penetrate rooms.
- i. Flooring shall be reasonably smooth, not rotten or worn through.
- j. No loose flooring shall be allowed.
- k. Floors shall be reasonably level.

(3) *Walls, exterior:*

- a. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- b. No studs which are rotted or termite-damaged shall be allowed.
- c. No broken or cracked structural members shall be allowed.
- d. No loose siding shall be allowed.
- e. Walls used as partitions shall not lean or buckle.

- f. No deteriorated siding or covering shall be allowed.

(4) *Walls, interior:*

- a. The interior finish shall be free of holes and cracks, which permit air to excessively penetrate rooms.
- b. No loose plaster, loose boards or other loose wall materials shall be allowed.
- c. There shall be no cardboard, newspaper or other highly combustible material allowed as a wall finish.
- d. No studs shall be rotted or termite-damaged.
- e. No broken or cracked studs or other broken or cracked structural members shall be allowed.

(5) *Ceilings:*

- a. No joists shall be rotted, broken or sagging or have improperly supported ends.
- b. There shall be allowed no holes or cracks, which permit air to excessively penetrate rooms.
- c. No loose plaster, loose boards, loose sheetrock or other loose ceiling finish shall be allowed.
- d. There shall be allowed as ceiling finishes no cardboard or other highly combustible material.

(6) *Roofs:*

- a. Rafters shall not be rotted, broken or sagging or have improperly supported ends.
- b. No rafters seriously fire-damaged shall be allowed.
- c. Attics shall be properly vented.
- d. No rotted, loose, or sagging sheathing shall be allowed.
- e. No loose roof covering shall be allowed nor shall there be allowed any holes or leaks, which could cause damage to the structure or rooms.
- f. Walls and chimneys shall have proper flashing.

(7) *Stairs and steps:*

- a. Stairs and steps shall be free of holes, grooves and cracks large enough to constitute accident hazards.
- b. Stairwells and flights of stairs more than four (4) risers or having risers more than thirty (30) inches high shall have rails not less than two (2) feet six (6) inches measured vertically from the nose of the treads to the top of the rail.
- c. Every rail shall be firmly fastened and maintained in good condition.
- d. No flight of stairs settled more than one (1) inch out of its intended position or pulled away from supporting or adjacent structures shall be allowed.
- e. No rotting, sagging or deteriorated supports shall be allowed.

(8) *Porches and appurtenances:*

- a. Every outside and inside porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be kept in sound condition and good repair.
 - b. Protective railings shall be required on any unenclosed structure over three (3) feet from the ground level.
- (9) *Accessory structures:* All accessory buildings and structures, including detached garages, shall be maintained structurally sound and in good repair or shall be raised to grade level and the debris therefrom removed from the premises.
- (10) *Supplied facilities:* Every supplied facility, piece of equipment or utility which is required under this article shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

Sec. 9-1076. - Property maintenance.

The minimum property maintenance standards are as follows:

- (1) *Buildings and structures:*
 - a. Exterior wood surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative, with sufficient frequency to prevent deterioration.
 - b. Floors, walls, ceilings and fixtures shall be maintained in a clean and sanitary condition.
- (2) *Public areas:* Every owner of a structure containing two (2) or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the structure and premises thereof.
- (3) *Rubbish and garbage:* Every person who occupies and controls a dwelling unit shall dispose of all rubbish and garbage in a clean and sanitary manner by placing it in proper storage facilities.
- (4) *Premises:*
 - a. Fences and other minor structures shall be maintained in safe and substantial condition.
 - b. Yards and courts shall be kept clean and free of physical hazards, rubbish, trash and garbage.
 - c. No heavy undergrowth or accumulations of plant growth which are noxious or detrimental to health shall be allowed.
 - d. Every premises shall be provided with all-weather vehicular access to and from the premises at all times by an abutting public or private street.
 - e. Walks and steps, constructed so as to provide safety, reasonable durability and economy of maintenance, should be provided for convenient all-weather access to the structure.
 - f. Access to the rear yard from each dwelling unit shall be required. Such access is not, however, acceptable where it is dependent upon passage through another dwelling unit. Each building shall be provided with access to the rear yard. This access for a detached dwelling shall be directly from a street.

- g. Any nonresidential use of the premises shall be subordinate to its residential use and character.

(5) *Infestation:*

- a. Premises, buildings and structures shall, by generally accepted methods of extermination, be maintained free of vermination and rodent harborage and infestation.
 - b. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement or cellar, which might provide an entry for rodents, shall be supplied with screens installed or with such other approved devices as will effectively prevent entrance by rodents.
 - c. Every head-of-household occupant of a structure containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every head-of-household occupant of a dwelling unit in a structure containing more than one (1) dwelling unit shall be responsible for such extermination whenever the dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any structure or in the shared or public parts of any structure containing two (2) or more dwelling units, extermination shall be the responsibility of the owner.
- (6) *Cleanliness:* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he occupies and controls.
- (7) *Supplied plumbing fixtures:* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- (8) *Care of facilities, equipment and structure:* No occupant shall willfully destroy, deface or impair any of the facilities or equipment of any part of the structure of a dwelling or dwelling unit.
- (9) *Lead Paint per North Carolina G.S. 130A-131.7* All property owners shall comply with lead paint provisions and abatement. Property owner assumes all costs of abatement and repairs. All homes constructed before the year 1978 will be subject to lead paint testing.

Sec. 9-1077. – Rooming/Boarding houses.

All of the provisions of this article, and all of the minimum standards and requirements of this article shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

- (1) At least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house whenever such facilities are shared. All such facilities shall be located on the floor they serve within the dwelling so as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.
- (2) Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

- (3) Every room occupied for sleeping purposes by one (1) person shall contain at least seventy (50) square feet of floor space and every room occupied for sleeping purposes by more than one (1) person shall contain at least fifty (70) square feet of floor space for each occupant thereof.
- (4) Every rooming unit shall have safe, unobstructed means of egress leading to safe and open space at ground level, as required by the laws of the governed area or of the state.
- (5) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for maintenance of a sanitary condition in every part of the rooming house. He shall be further responsible for the sanitary maintenance of the entire premises when the entire structure or building is leased or occupied by the operator.
- (6) No person shall operate a rooming house unless he holds a valid rooming house license and keeps same posted on the premises.
- (7) The Town Council on a quarterly basis shall inspect rooming houses, according to G.S. 160A-424.

Sec. 9-1078. - Inspections; duty of owner and occupants.

Every occupant of a dwelling or dwelling unit shall give the owner thereof, or agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this article or with any lawful order issued pursuant to the provisions of this article.

Sec. 9-1079. - Refusal to permit entry for inspection.

It shall be unlawful for any owner or person in possession of premises on which housing is located in the Town to refuse, after being presented with a warrant, as issued in accordance with state law, to permit the code enforcement officer or duly appointed agents to enter upon the premises for the purpose of making examinations as authorized by this article. Violation of this section shall subject the offender to a civil penalty.

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

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 9-1080. - Method of serving complaints, orders.

Complaints or orders issued by the code enforcement officer or designee under this article shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public official in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the public official makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Town at least once no later than the time at which personal service would be required under the provisions of the part. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

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

Sec. 9-1081. - Dwellings in violation; preventive action or proceeding.

If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this article or any valid order or decision of the official made pursuant to this article, the official may institute any appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the dwelling or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

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

Sec. 9-1082. - Petition for temporary injunction.

Any person aggrieved by an order issued by the official may petition the superior court for an injunction restraining the official from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the official pending a final disposition of the case. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition with twenty (20) days, and shall be given preference over other matters on the court calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction.

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

Sec. 9-1083. - Enforcement by Code Official/Code Enforcement Officer; assistance from Town agencies, departments.

- (a) The code enforcement officer shall be responsible for the enforcement of this article.
- (b) The code enforcement officer shall have authority to request the advice and assistance of the Town planning board, the housing authority, the fire department, the health department, and any other public authority may be deemed appropriate, in determining those areas of the Town in which substandard housing may be prevalent, and designate and schedule such areas for comprehensive inspection under this article. This procedure shall be in addition to regular, Town wide inspections under this article.

Sec. 9-1084. - Powers of Code Official/Code Enforcement Officer.

The code enforcement officer is authorized to exercise any powers necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others granted:

- (1) To investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths; affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations in a manner that will do the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of officials, agents and employees necessary to carry out the purposes of the ordinances;

- (5) To delegate any of the functions and powers under the ordinance to other officials and other agents.

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

Sec. 9-85 - Issue of complaint; hearing; determination of unfit dwelling; abatement procedure.

- (a) Whenever a petition is filed with the code enforcement officer by a public authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the official that any dwelling or dwelling unit is unfit for human habitation, the code enforcement officer shall, if the preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the official, at a place within the county, not less than ten (10) nor more than thirty (30) days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one (1) of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.
- (b) If after such notice and hearing the official determines that the dwelling under consideration is unfit for human habitation, the code enforcement officer shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owners an order as follows:
- (1) If the repair, alteration or improvement of the dwelling can be made at a cost not to exceed fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation;
 - (2) If the repair, alteration or improvement of the dwelling cannot be made at a cost not to exceed (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to remove or demolish such dwelling.
 - (3) If a house has been closed and/or boarded, for a period of one year or longer, after being closed following proceedings under the substandard housing regulations and Town Council determines that the owner has abandoned the intent and purpose to render it fit for human habitation and that continuation of the dwelling in its vacated and closed status would be inimical to the health, safety, morals and welfare of the community in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would cause or contribute to blight and deterioration of property values in the area, then in such circumstances, the Town Council may, after the expiration of such one year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:
 - a. If it is determined that the repair of the dwelling to render it fit for human habitation can be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling within ninety (90) days; or,

- b. If it is determined that the repair of the dwelling to render it fit for human habitation cannot be made at a cost not exceeding fifty (50) percent of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.
- (c) The official is authorized to fix the reasonable value of any housing and to estimate the cost of repairs, alterations or improvements for the purposes of this section.
- (d) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the official may cause such to be repaired, altered or improved or to be vacated and closed, and may cause to be posted on the main entrance of any dwelling so closed a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.
- (e) If the owner fails to comply with an order to remove or demolish the dwelling, the official may cause such dwelling to be removed or demolished; provided, however, that the powers of the official set forth in subsection (d) and this subsection shall not be exercised until the Town Council has, by ordinance, ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be unfit for human habitation and which shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.
- (f) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § Ch. 160A, art. 10. If the dwelling is removed or demolished by the official, he shall sell the materials of such dwelling, any personal property, fixtures or appurtenances found in or attached to the dwelling, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.
- (g) If any occupant fails to comply with an order to vacate a dwelling, the public official may file a civil action in the name of the Town to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the public official produces a certified copy of an ordinance adopted by the governing body pursuant to subdivision (e), authorizing the official to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary

ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the governing body has ordered the public official to proceed to exercise duties under paragraphs (d) and (e) of this section to vacate and close or remove and demolish the dwelling.

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

State Law reference— Abatement procedures, G.S. § 160A-443.

Sec. 9-1086 Appeals from orders of Code Official/Code Enforcement Officer.

- (a) An appeal from any decision or order of the code enforcement officer may be taken by any person who is the subject of the decision or order. Any appeal from the official shall be taken within ten days from the rendering of the decision or notice of the order, and shall be taken by filing a notice of appeal with the planning department which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the official shall forthwith transmit to the board of adjustment all papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the code enforcement officer refusing to allow the person aggrieved thereby to do any act, the decision shall remain in force until modified or reversed. When any appeal is from a decision of the code enforcement officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing of the board of adjustment, unless the official certifies to the board of adjustment, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of the requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the code enforcement officer, by the board of adjustment, or by a court of record upon petition made pursuant to G.S. 160A-446(f) and the provisions of this article.
- (b) The board of adjustment shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the official, but the concurring vote of four members of the board shall be necessary to reverse or modify any decision or order of the official. The board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

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

Sec. 9-1087. - Petition to superior court.

Any person aggrieved by an order issued by the official or a decision rendered by the board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the official pending a final disposition of the cause.

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

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

No person without the written consent of the Town manager or appointed agent shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this article. Any person violating or failing to comply with the provisions of this section shall be guilty of a misdemeanor.

Sec. 9-1089. - Renting unfit dwelling after notice.

When the official finds that a dwelling is unfit for human habitation within the meaning of this article and has notified the owner to such effect and the time limit set by the official for the repair, alteration, improvement, removal, demolition or vacating and closing the same has expired, no person shall receive rentals or offer for rent or occupancy such dwelling or dwelling unit as a human habitation until such time as the order of the official is obeyed or reversed by a court of competent jurisdiction in accordance with the law. Each day such offense continues shall be deemed separate offense. Any violation of this section shall subject the offender to a civil penalty.

Sec. 9-1090. - Certificate of occupancy.

- (a) The Town shall not provide, nor permit another to provide, either public or private utility services such as water, gas, electricity, sewer, etc., to any dwelling unit becoming vacant until such dwelling unit has been inspected, brought into compliance with this article and a valid certificate of occupancy, as required, has been issued. This requirement shall not preclude the temporary use of such utility services for alteration. The building official shall be responsible for making the determination as to when such temporary services may be necessary.
- (b) No certificate of occupancy may be issued for any single-family or multi-family residential building on which construction is begun on or after January 1, 1978, until it has been certified as being in compliance by the energy and insulation official with the minimum insulation standards for residential construction, as prescribed in the state building code.

For structures built prior to 1978 and no insulation exists, the attic shall be insulated to an R-30 value. If insulation exists in a structure built before 1978, it must have an R-19 value.

- (a) It shall be unlawful for any person to occupy, or allow another to occupy, or offer for rent, a dwelling or dwelling unit until a valid certificate of occupancy has been issued.

Section 9-1091 Changes in work after permit issued.

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

Sec. 9-1092. - Violations; penalty.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the official duly made and served as provided in this article, within the time specified in the order. Each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to this division, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration

or improvement, or its vacation and closing, or removal or demolition. Each day that such occupancy continues after the prescribed time shall constitute a separate and distinct offense.

ARTICLE E. – MINIMUM STANDARDS FOR NON-RESIDENTIAL BUILDINGS

Sec. 9-1093. - Exercise of police powers; authority.

The Town Council hereby finds and declares that there exists within the Town limits and its environs unsafe structures which are a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities. In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens and its environs, a public necessity exists to exercise the police powers conferred upon the Town for the repair, closing or demolition of such structures.

Sec. 9-1094. - Definition of abandoned and/or unsafe structure.

An abandoned and/or unsafe structure is defined as a nonresidential building or structure which has not been occupied by authorized persons for at least six (6) months and which persistently or repeatedly becomes unprotected or unsecured, or which has been occupied by unauthorized persons, or which presents a danger of structural collapse, fire, disease, or a threat to children.

Sec. 9-1095. - Procedure for enforcement.

- (a) *Duty of code official/code enforcement officer.* It shall be the duty of the code official or code enforcement officer to examine non-residential structures located in the Town and its environs where conditions described in section 4-101 exist for the purpose of locating and taking action with respect to such structures as appear to be a health or safety hazard. In exercising this power, department members shall have the right to enter on any premises within the jurisdiction of the department at all reasonable hours for purposes of inspection or other enforcement action, upon presentation of proper credentials.
- (b) *Notice of complaint.* If the inspection discloses health or safety hazards as described in this article, the official shall affix a notice of unsafe character in a conspicuous place on the exterior wall of the structure giving notice of its unsafe or dangerous conditions and cause to be served upon the owner of and parties in interest to the structure a complaint stating the charges and containing a notice. If the owner of a building or structure that has been condemned as unsafe pursuant to G.S. §160A-426 shall fail to take prompt corrective measures, the official shall give him written notice, by certified or registered mail to the last known address or by personal service, that the building or structure is in a condition that appears to meet one or more of the following conditions:
 - (1) Constitutes a fire and safety hazard;
 - (2) Is dangerous to life, health, or other property;
 - (3) Is likely to cause or contribute to blight, disease, vagrancy or danger to children; or
 - (4) Has a tendency to attract person/s intent on criminal activities or other activities which would constitute a public nuisance.

A hearing will be held before the official at a designated place therein fixed, not less than ten (10) nor more than thirty (30) days after serving of said complaint. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of

the hearing is published in a newspaper having general circulation in the Town at least once, not later than one week prior to the hearing.

No oversight or dereliction of duty on the part of any official or employee of the Town shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code adopted in this chapter.

- (c) *Hearing.* The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the official.
- (d) *Procedure after hearing.* After such hearing, if the official finds that a structure constitutes a health or safety hazard, the code enforcement officer shall state in writing the findings of fact in support of such determination. In such case, the official shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, close, vacate or demolish the structure as necessary to correct the health or safety hazard within a specified period of time.

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

Any owner who has received an order under G.S. § 160A-429 may appeal from the order to the Board of Adjustment by giving notice of appeal in writing to the official and to the Town clerk within ten days following issuance of the order. In the absence of an appeal, the order of the official shall be final. The Board of Adjustment shall hear and render a decision in an appeal within a reasonable time. The Board of Adjustment may affirm, modify and affirm, or revoke the order.

Sec. 9-1097. - Securing, closing and demolition by the Town.

If the owner fails to comply with an order of the official to repair, secure and close, vacate or demolish, the official shall take one (1) or more of the following actions as necessary:

- (a) Secure the issuance of a warrant charging such owner with violation of this article;
- (b) Secure and close said structure;
- (c) Cause such structure to be repaired, altered or improved; or
- (d) Cause such structure to be demolished.

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

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

- (a) The powers of the official as set forth in section 4-103(c) and (d) shall not be exercised until the Town Council has by ordinance ordered the official to proceed to effectuate the purpose of this article with respect to the particular property or properties, which the official has found to be a health or safety hazard and which shall be described in the ordinance. Such ordinance shall be recorded in the office of the register of deeds of the county and shall be indexed in the name of the property owner in the grantor index.
- (b) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the official, shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § Ch. 160A, Art. 10. If the structure is removed or demolished by the official, he shall sell the materials of such

structure, any personal property, fixtures or appurtenances found in or attached to the structure, and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the official, shall be secured in such manner as may be directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

Sec. 9-1099. - Failure to comply with order.

If the owner of a building or structure fails to comply with an order issued pursuant to G.S. §160A-429 from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he shall be guilty of a Class 1 misdemeanor, additionally subject the offender to civil penalty to be recover by the Town pursuant article G.S. § 14-4.; Every day such person shall willfully fail or refuse to comply with any final order or direction of the code enforcement officer or Town Council made by virtue and in pursuance of this article shall constitute a separate and distinct offense.

Sec. 9-1100. - Lien on property.

The amount of the cost of such repair, alterations, improvements, vacating and closing, or demolition ordered by the Town Council or by the official shall be a lien against the real property upon which such cost was incurred; said lien shall be filed, have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments pursuant to G.S. § Ch. 160A, Art. 10.

Sec. 9-1101. - Other unlawful actions.

- (a) No person shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of section 4-103 of this article.
- (b) It shall be unlawful for the owner of any building upon whom a notice, complaint or order has been served, to sell, transfer, mortgage, lease or otherwise dispose of said building unless one of the following actions have been taken:
 - (1) Compliance with the provisions of the notice, complaint or order; or
 - (2) Furnish a copy of any notice, complaint or order to the transferee, lessee, or mortgagee, and give written notice to the official of said action.

Sec. 9-1102. - Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisance and to cause their abatement by summary action or otherwise, or the enforcement of any other remedy or remedies provided or in other ordinances of laws.

Sec. 9-1103. - Conflicts with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with a provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town and environs shall prevail.

Sec. 9-1104. - Unsafe buildings condemned.

An official may declare a nonresidential building or structure within a community development target area designated by the Town Council, or within a development zone authorized by G.S. § 105-129.3.A or G.S. §160A-503(10) to be unsafe if it meets both of the following conditions:

- (1) It appears to the official to be vacant or abandoned; and
- (2) It appears to the official to be in such dilapidated condition as to cause or contribute to blight, disease, vagrancy, fire or safety hazard, to be a danger to children, or tend to attract persons intent on criminal activities or other activities which would constitute a public nuisance.

Sec. 9-1105. - Appeals in general.

Unless otherwise provided by law, appeals from any order, decision or determination by a member of a local inspection department pertaining to the state building code or other state building laws shall be taken to the commissioner of insurance or appointed designee or other official specified in G.S. § 143-139, by filing a written notice with him and with the inspection department within a period of ten days after the order, decision or determination. Further appeals may be taken to the state building code council or the courts as provided by law.

Sec. 9-1106. - Changes in work after permit issued.

After a permit has been issued, no changes or deviations from the terms of the application and permit or changes or deviations from the plans or specifications involving any work under the jurisdiction of this chapter shall be made until specific written approval of such changes or deviations has been obtained from the appropriate official.

Sec. 9-1107. - Report of owner's failure to comply with Code Official's/Code Enforcement Officer's order.

If the owner does not appeal from the final order or direction of the code enforcement officer requiring that the building or structure be demolished and removed or the taking of such other steps as may be required to abate the nuisance and remove the hazards, and fails or refuses to comply with such order and direction, it shall be the duty of the official to file a written report thereof with the Town manager, who shall cause such report to be placed on the agenda for action by the Town Council at its next ensuing regular meeting or at some subsequent meeting to which the Town Council may continue the same. The code enforcement officer shall mail a copy of such report by certified or registered mail to the owners last known address or have a copy of such report delivered to such owner. Such report shall specify the date of the meeting of the Town Council for which the matter will be docketed for action.

ARTICLE F. – ABANDONED MANUFACTURED HOMES**Sec. 9-1108 - Intent**

- (a) The intent of this article is to protect the public health and environment through the deconstruction of abandoned manufactured homes to reduce blight and unattractive nuisances.
- (b) It is a policy of the town to promote the removal of reusable or recyclable materials to reduce the impact of such solid wastes and production of said materials on the environment.

Sec. 9-1109 - Abandoned, Nuisance and Junked Mobile Homes Unlawful

- (a) It shall be unlawful for the registered owner or person entitled to possession of a manufactured home and for the owner, lessee or occupant of the real property upon which the manufactured home is located to leave, allow, or suffer the manufactured home to remain on the property after it has been declared an abandoned manufactured home or a public nuisance.
- (b) A manufactured home shall be deemed to be an abandoned manufactured home for the purposes of this article in the following circumstances: any manufactured home that is either vacant or in need of extensive repair; and an unreasonable danger to public health, safety, welfare or the environment.
- (c) A manufactured home shall be considered abandoned when it has not been occupied for at least 120 days and meets any of the following criteria:
 - (1) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity;
 - (2) Has been boarded up for at least 30 days;
 - (3) Has taxes in arrears for a period of time exceeding 365 days;
 - (4) Has all utilities disconnected or not in use

Sec. 9-1110 - Notice Requirements for Abandoned Manufactured Homes

The Town shall notify the responsible party and the land owner for each identified abandoned manufactured home in writing and shall be sent to the person in the form of certified mail.

Sec. 9-1111 - Removal of Abandoned Manufactured Homes

- (a) The owner or responsible party shall be given 60 days from receipt of the written notice to dispose of the abandoned manufactured home in a legal manner.
- (b) If the owner or responsible party fails to comply with this order, the town shall take any action it deems reasonably necessary to dispose of the abandoned manufactured home, including entering the property where the abandoned manufactured home is located and arranging to have the home deconstructed and disposed of in a manner consistent with the Town's garbage collection and disposal provisions.
- (c) The property owner does not remove said abandoned manufactured home a lien will be placed against the real property, if not paid within 30 days and shall be collected as unpaid taxes.

Sec. 9-1112 - Protection Against Criminal or Civil Liability

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked manufactured home, for disposing of such manufactured home as provided in this article.

Sec. 9-1113 - Appeals

- (a) Within the 60-day period mentioned in Sec. 5.04, the owner of the property where the nuisance exists may appeal the findings of the enforcement official to the Board of Adjustment by giving written notice of appeal to the enforcement official, the appeal to stay the abatement of the nuisances by the enforcement official until a final determination by the Board of Adjustment. In the event no appeal is taken, the enforcement official may proceed to abate the nuisance.
- (b) The Board of Adjustment, in the event an appeal is taken as provided in division (a) above, may, after hearing all interested persons and reviewing the findings of the enforcement official, reverse the finding made pursuant to Sec. 5.04, but if the Board of Adjustment shall determine that the findings of the enforcement official pursuant to Sec. 6.04 are correct and proper, it shall declare the condition existing on the property to be a danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the Town and public nuisance, and direct the enforcement official to cause the conditions to be abated.

Secs. 9-1114—9-1070. - Reserved.”

ADOPTED THIS, THE 6TH DAY OF MAY, 2019.

JOHN F. BLACK, JR., Mayor

ATTEST:

Town Clerk

(corporate seal)

RESOLUTION AMENDING CHAPTER 3 OF PART 8
OF THE CODE OF ORDINANCES OF THE TOWN OF VALDESE

IT IS HEREBY RESOLVED that Chapter 3 of Part 8 of the Code of Ordinances is amended to read as follows:

“CHAPTER 3 – ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES
Sec. 8-3001. - Administration.

The police department, fire department, and code enforcement officer of the Town shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town and on property owned by the Town. The Town Council, with the assistance of the code enforcement officer, Town planner, or fire department, shall be responsible for administering the removal and disposition of "abandoned," "nuisance" or "junked motor vehicles" located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of the Town police department and fire department in enforcing other laws or in otherwise carrying out their duties.

Sec. 8-3002. - Definitions.

For the purpose of this article, certain words and terms are defined as herein indicated:

Abandoned vehicle: As authorized and defined in G.S. §160A-303, an abandoned motor vehicle is one (1) that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven (7) days; or
- (3) Is left on property owned or operated by the Town for longer than twenty-four (24) hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

Authorizing official: The supervisory employee of the police department or the code enforcement officer, respectively, designated to authorize the removal of vehicles under the provisions of this article.

Motor vehicle or vehicle: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Junked motor vehicle: As authorized and defined in G.S. §160A-303.2 the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500.00).

Nuisance vehicle. A vehicle on public or private property that is determined and declared to be a health or safety hazard, or a public nuisance, or unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height; or
- (3) A point of collection of pools or ponds of water; or
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor, visible presence; or
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, passenger interior, or other interior sections, etc.; or
- (6) So situated or located that there is a danger of its falling or turning over; or
- (7) One (1) which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) So offensive to the sight as to damage the community, neighborhood or area appearance; or
- (10) Used by children in play activities; or
- (11) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.

Sec. 8-3003. - Abandoned vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, proper authorizing officials of the Town or code enforcement officer may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Sec. 8-3004. - Nuisance vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the code enforcement officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Sec. 8-3005. - Junked motor vehicle regulated; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (b) Subject to the provisions of subsection (c), upon investigation, the code enforcement officer may order the removal of a junked motor vehicle as defined in this article after

finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
 - (2) Promotion of tourism and other economic development opportunities;
 - (3) Indirect protection of public health and safety;
 - (4) Preservation of the character and integrity of the community, and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.
- (c) Permitted concealment or enclosure of junked motor vehicle: Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means one which is erected pursuant to the lawful issuance of a zoning permit and a building permit which has been constructed in accordance with all zoning and building code regulations.

Sec. 8-3006. - Declared to be a health or safety hazard.

Any partially dismantled or wrecked vehicle, vehicle which is incapable of self-propulsion or being moved in the manner for which it was originally intended, vehicle left on private property without the consent of the owner, occupant or lessee thereof, or any junk motor vehicle is declared to be an attractive nuisance for children, a breeding place for rats and vermin, and a potential fire hazard. All vehicles abandoned upon privately owned property, which have been abandoned for as long as 30 days are declared to constitute a health and safety hazard.

Sec. 8-3007. - Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.

Except as set forth in section 2.08 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner, or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, notice shall be given by first class mail (or any other method authorized for service by North Carolina Rules of Civil Procedure). The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to whom the notice is mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

An order to remove abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, may be appealed by the registered owner or person entitled to possession, does not remove the vehicle, but chooses to appeal, within the time period stated in the notice by appearing before the BOA. Such appeal shall stay the order of removal until final determination by the BOA. The appeal shall consider the determination that the vehicle is abandoned, or in the case of a nuisance vehicle, or in the case of a junked motor vehicle,

that the aesthetic benefits of removing the vehicle outweigh the burdens. In the event no appeal is taken within the time period stated in the notice to remove, the code enforcement officer may proceed to remove the vehicle.

Sec. 8-3008. - Exceptions to prior requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official or code enforcement officer, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- (1) *Vehicles abandoned on the streets within the Town.* For vehicles left on the public streets or highways, the Town Council hereby determines that immediate removal of such vehicles therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area may be warranted when they are:
 - a. Obstructing traffic;
 - b. Parked in violation of an ordinance prohibiting or restricting parking;
 - c. Parked in a no-stopping or standing zone;
 - d. Parked in loading zones;
 - e. Parked in bus zones, or;
 - f. Parked in violation of temporary parking restrictions imposed under Code sections.
- (2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on Town-owned property, other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice; only in those circumstances where the authorizing official or code enforcement officer finds a special need for prompt action to protect and maintain the public health, safety and welfare. Therefrom for safekeeping by or under the direction of the police department, the department of planning and community development, or the department of public works, to a storage garage or area. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 8-3009. - Removal from private property.

- (a) Before any vehicle may be removed by the Town from private property as defined above to be abandon, junk or nuisance, the owner of the real property on which any such vehicle is located must be given at least five days' written notice from the Town of the vehicle removal. The owner may request in writing that the code enforcement officer review the determination that the vehicle to be removed is in violation of the ordinance. No such vehicle shall be removed from privately owned premises without the written request of the owner, lessee or occupant of the premises on which the vehicle is located unless the vehicle has had the status of an abandoned vehicle on such privately owned premises for as long as 30 days and has, therefore, become a health and safety hazard in accordance with the declaration of the Town Council as set out in section 2.06. When a vehicle is removed from privately owned property at the request of a person, the person at whose request such vehicle is moved shall

indemnify the Town against loss or expense incurred by reason of removal, storage or sale thereof.

Sec. 8-3010. - Removal of vehicles; post-towing requirements.

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the Town. Whenever such a vehicle is removed, the authorizing official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

The Town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or agent.

If the vehicle is registered in North Carolina, notice shall be given to the registered owner within twenty-four (24) hours after vehicles is removed. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

Sec. 8-3011. - Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause exists for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated in G.S. §20-219.11(c) to receive such hearing requests, the magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. §20-219.11 as amended.

Sec. 8-3012. - Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to possession of the vehicle shall not allow or engage in further violations of this article.

Sec. 8-3013. - Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession, will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes, except no probable cause hearing in addition to the hearing provided for in Section 2.11 is required.

State Law reference— Disposal of abandoned, nuisance or junked motor vehicle, by tow truck operator or towing business, G.S. § Art.1, Ch. 44A.

Sec. 8-3014. - General penalty.

- (a) Except as set forth in subsection (b), violation of any provision of this Code or any other Town ordinance shall be a misdemeanor as provided by G.S. § 14-4(a).
- (b) Violation of any provision of this Code shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within a period of seventy-two (72) hours after he has been cited for violation of the ordinance. Citation shall be in writing, signed by the code enforcement officer and shall be delivered or mailed to the offender either at the residence or at the place of business or at the place where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such civil penalty may be joined in action for appropriate equitable or other legal remedy, including injunctions and orders of abatement and including an action to recover damages owing to the Town by reason of expenses incurred by the Town in abating, correcting, limiting and otherwise dealing with the harmful effects of the offending action.

Sec. 8-3015. - Exceptions.

Nothing in this article shall apply to any vehicle:

- (1) Regulated under G.S. § 160A-303.2 which is kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, in accordance with the "Junkyard Control Act," G.S. § 136-141, et seq., or the removing or disposing of any motor vehicle that is used on a regular basis for business or personal use; and
- (2) Regulated under G.S. § 160A-303 which is in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

Sec. 8-3016. - Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility, designated by the Town, any vehicle which has been impounded pursuant to the provisions of this Code, unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

State Law reference - Definition of junkyard, G.S. § 136-143, Junkyard Control Act, G.S. Junkyard Control Act, G.S. 136 136-141

Sec. 8-3017. - Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article."

ADOPTED THIS, THE 6TH DAY OF MAY6, 2019.

JOHN F. BLACK, JR., Mayor

ATTEST:

Town Clerk

(corporate seal)

RESOLUTION AMENDING CHAPTER 4 OF PART 8
OF THE CODE OF ORDINANCES OF THE TOWN OF VALDESE

IT IS HEREBY RESOLVED that Chapter 4 of Part 8 of the Code of Ordinances is amended to read as follows:

“CHAPTER 4 – NUSIANCES RELATED TO PROPERTY

Sec. 8-4001. - Definitions

As used in this chapter, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates that a different meaning is intended:

Agent means the person who manages or has custody of a business building or the person to whom rent thereon, if any, is paid.

Apartment or apartment house or tenement house means every house, building, or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the house, home or residence of more than two families, living independently of each other and doing their cooking on the premises, or by more than one family upon a floor, so living and cooking, but having no common right in the halls, stairways, yards, water closets or privies.

Ashes means the residue from the burning of wood, coal, coke or other combustible material. "Ashes" shall not include cremated human remains.

Attached business unit means a structure of two or more business offices constructed as one unit, such as a dental office, medical office, insurance office or any other business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Brushwood means large, heavy yard trimmings resulting from heavy pruning or shrub removal with maximum six-inch diameter at large end;

Building material means lumber, brick, stone, dirt, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters and other materials or substances accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures or demolition of such.

Bulk container means a commercially made metal container designed to store and hold rubbish and solid waste until the same can be collected for disposal, generally having a capacity of not less than four cubic yards nor more than eight cubic yards and capable of being serviced and emptied by automated machinery.

Bulk service means a customer that stores and disposes of rubbish and solid waste in a bulk container.

Business building means any structure, whether public or private, in the Town that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise or for the performance of work or labor, including, but not being limited to, hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories in business areas and all outhouses, sheds, barns and other structures on premises used for business purposes.

Collection means the act of removing solid waste from a point of generation to an approved disposal site.

Collection on private property means the act of removing solid waste from private developments for an additional fee from a point of generation to an approved disposal site. Collection shall be made at a mutually established location approved by the property manager and the Town manager or appointed designee for automated collection.

Commercial establishment means any structure or location, whether public or private, that is adapted for occupancy for the transaction of business, for the rendering of professional services, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotel rooms, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all other houses, sheds, barns and other structures on premises used for business purposes. "Commercial establishment" shall also include churches, houses of worship or other religious or eleemosynary institutions, regardless of size.

Construction and demolition waste means solid waste incident to maintenance, remodeling or new construction, including, but not limited to, mineral matter, wood, sheetrock, shingles and metal, but specifically excluding any substance which is contaminated by asbestos, lead based paint, or any other substance the disposal of which is regulated as a toxic or hazardous material.

Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

Disabled person means any person who by reason of infirmity, or other physical or mental impairment is incapable of complying with the provisions of this chapter as it relates to the placement of refuse containers curbside. Included in the definition are children 12 years of age and under;

Family living unit means, but is not limited to, single-family residences, single mobile homes, single-family living units in duplexes, apartments, and other multifamily dwellings, but shall not include hotels or motels;

Fee means that charge by the Town associated with a good or service provided to or for the benefit of a customer.

Garbage means all putrescible wastes except sewage and body wastes, including all meat, vegetables and fruit refuse commonly resulting from the handling, preparation, cooking and consumption of food, from or on any premises within the Town limits.

Graffiti shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public or private buildings, sidewalks, streets, structures, or places which such marking are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of the materials used in the act.

Nothing in this chapter shall be construed to prevent temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with typical children's activities, such as drawings, or bases for stick ball, kickball, handball, hopscotch or other similar activities. Nothing in this chapter shall be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connections with any lawful business or public purpose or activity.

Hazardous household waste means any of the following materials, existing in a home because of their use in that home: pesticides; herbicides; petroleum products (epoxy resins, coal tar, polishes, thinners, mineral spirits, varnish, grease, caulking materials); solvents; acids

(muriatic, hydrochloric, sulfuric, phosphoric); poisons (arsenic, lead, chrome and warfarin compounds); alkaline material (photo developers, sodium hydroxide, bleaches); oil based paints and stains, but not latex paints; batteries of all kinds, for cars, flashlights, smoke detectors, hearing aids, toys, watches and similar batteries; antifreeze; and used motor oil.

Hazardous material or hazardous waste. The following is an explanation of hazardous waste as published in the North Carolina Hazardous Waste Management Law adopted for the Federal Environmental Protection Agency (EPA). For the purposes of this chapter, the definition "hazardous waste" has been condensed. The terms defined are not inclusive of all items specified by the EPA regulations. Hazardous waste is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated or disposed of without special precautions. It includes ignitable, corrosive, reactive and toxic waste such as acetone, gasoline and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), and explosives.

Health official means the chief health official of the County Health Department or any health department including County or any person whom he has authorized to perform any of the powers or duties conferred upon him by this article.

Hotels and motels mean places of business whose primary business and the one in which they are normally and customarily engaged in supplying temporary living quarters with limited family living facilities for short periods of time.

Household sharp medical waste means any type of product capable of puncturing or lacerating the skin that is designed or used to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.

Industrial and commercial waste means those wastes, including solids, semisolids, sludge and liquids generated by an industry, commercial establishment or other manufacturing enterprise that is not classified as a hazardous waste or requires special handling such as oils, acids, etc.

Infectious waste means a solid waste capable of producing an infectious disease. Examples of waste designated as infectious are: micro-biological waste, pathological waste, blood products, improperly packaged sharps and all other waste as defined in the medical waste management regulation under 15A NCAC 13B.1200 in North Carolina Solid Waste Management rules.

Liquid waste means any waste material that is determined to contain free liquid as defined in Method 9095, Paint Filter Liquid Test, as described in Test Methods for Evaluating Solid Waste, Physical/Chemical Method, as published in the Environmental Protection Agency Publication No. SW-846 or any successor or equivalent publication.

Litter means any discarded man-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials and hazardous waste as such terms are defined in this chapter and not properly containerized or prepared for collection and disposal.

Multifamily residential unit means two or more single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses, or condominiums. Duplexes/triplexes built on public streets are not considered multifamily residential units.

Nuisance means any condition or use of property, or any act or omission affecting the condition or use of property, which directly threatens the safety of citizens; adversely affects the general health, happiness, security and welfare of others; or is detrimental to the rights of others to the full use of their own property and their own comfort, and happiness because of decreased property values and the unattractiveness and livability of neighborhoods. Further, the Town

Council finds and declares that the following specific conditions are prejudicial to the general health, safety and welfare of the Town and its citizens; lessen the attractiveness and livability of the Town; and, when located on any lot or parcel of land within the Town limits, are a nuisance.

Occupant means the individual, firm, partnership or corporation that has the use of, controls or occupies any business building, apartment house or tenement house, or any portion thereof, whether owner or tenant. In the case of vacant business buildings, apartment houses or tenement houses, or any vacant portion of a business building, apartment house or tenement house, the owner, agent or other person having custody of the building shall have the responsibilities of an occupant of a building.

Occupant means the person who has the use of or occupies any business building or any part thereof, or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant business buildings or any vacant portion of a business building, or in case of occupancy in whole or in part by the owner and agent of the building, such owner or agent shall be deemed to be and shall have the responsibility of an occupant of such building.

Opening means any opening in foundation, sides or walls, ground or first floor or basement, including chimneys, eaves, grills, windows, ventilators, walk grates, elevators and any pipes, wires or other installations through which a rat may enter.

Open place shall constitute any portion or area of a property not enclosed by walls, this shall include, but not be limited to, carports, patios, porches, decks, terraces, lean-tos, outbuildings, and the like, which are exposed to the exterior and/or public view, including, but not limited to, front, side, and/or rear yards. Tarps, plastic sheeting, canvas sheeting, unfinished building materials or the like shall not constitute walls.

Owner means the person owning the business building or premises, or agent of the building or premises, or the person to whom rent is paid; whether an individual, firm, partnership or corporation. In the case of business buildings leased or rented with a covenant in the lease or other agreement under which the lessee is responsible for maintenance and repairs, the lessee shall also be considered in such cases as the owner for the purpose of this chapter.

Physical disability means a medical condition, verified by a registered physician, that makes an individual physically unable to bring the automated refuse/automated recycling container to the curbside for collection and where there is no one else residing in the household capable of taking the containers to the curbside.

Premises means business houses, boardinghouses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafes, bars, eating houses, hospitals, schools, private residences, mobile home parks, vacant lots and other places where garbage, trash or rubbish accumulates.

Private street means a street not open to public use, on private property, and not maintained by any governmental agency.

Private property means all of that property as described and set out in an owner's deed including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, bodies of water and including sidewalks, grass strips, one-half of alleys, curbs or rights-of-way up to the edge of the pavement of any public street.

Public street means the entire width between property lines, whatever nature, when any part thereof is dedicated or open to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

Public property means all that property except private property as herein defined, including but not limited to highways, streets, parks, recreation areas, sidewalks, grass strips, medians, curbs or rights-of-way up to the edge of the pavement of any public street or body of water.

Qualifying customer means a single-family detached home, duplex, or condominium regardless of the size of complex, or an apartment, tenement house or townhome which, when combined with all other units located on the premises, is comprised of not more than six family living units.

Rat eradication means the removal, killing, destruction and extermination of rats by systematic use of traps or by poisons and by other methods.

Rat harborage means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of a structure of any kind, including, but not limited to, conditions on vacant lots, creeks, branches, ditches, rubbish heaps, junkyards and any other places inside or outside of structures which afford shelter or provide a place or situation favoring the breeding, multiplication or continued existence of rats.

Rat stoppage or rat-proofing means a form of construction to prevent ingress of rats into business buildings from the exterior or from one building to another; it consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs and foundations, that may be reached by rats from the ground, by climbing or by burrowing.

Refuse means all solid wastes, including garbage, rubbish and trash.

Rollout container means a plastic or fiberglass container, having wheels for ease of movement and a lid which securely covers the bin designed to keep flies and other vermin from refuse, which is approximately 95 gallons in size and designed for the automatic collection of refuse by Town machinery.

Rubbish or trash means matter that is worthless or useless or of no substantial, practical value or matter that is of value only when it has decayed or has been recycled. Rubbish is solid waste, exclusive of garbage or ashes, including, but not limited to, leaves, pine needles, twigs, limbs and other such parts of trees not useful as timber and shall include the trunks and limbs of trees, even though useful for timber, when the same have been blown down or felled, either partially or totally, and which have become dried and flammable; tin or aluminum cans, bottles, papers, paper boxes or cartons, small light wood or crafting materials, rags, excelsior, rubber, leather, metals, wire or wire scraps, glass and crockery, but shall not include salvage automobiles, buses, or other items which in the judgment of the Town is likely to cause damage to equipment of the Town or injury to employees of the Town, or is likely because of the nature, size or weight of the material, to handicap or overburden the automated equipment.

Sharps container means a container specifically manufactured for the disposal of sharp medical waste.

Single business unit means any single nonresidential unit that generates no more garbage per week than can be placed or stored in a maximum of one rollout container with a total capacity of no more than 95 gallons when accumulated between collections, such as a dental office, medical office, insurance office or another business in which the major activity is providing a service or is clerical in nature and does not in itself produce a product.

Single-family residential unit means any dwelling place occupied by one family and not defined as a multifamily residential unit.

Solid waste means useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including by way of example and not by limitation, rubbish, garbage,

commercial and industrial waste, scrap materials, junk, refuse, demolition and construction debris and landscape refuse, but shall not include sludge from air or water pollution control facilities, septic tank sludge or agricultural or unacceptable waste.

Solid waste disposal facility means any land or structure or combination of land area and structures, including dumps, landfills and transfer stations used for storing, transferring, collecting, separating, processing, recycling, recovering, treating, salvaging, reducing, incinerating or disposing of solid wastes.

Stationary bulk compactor means any Town approved container made of watertight construction that contains a packing mechanism and an internal or external power unit, and constructed so that the container can be emptied mechanically by means of automated equipment for the purpose of collection of solid waste.

Town home or town house means an apartment or other family living unit which is capable of ownership separate and apart from other portions of the structure to which it is conjoined or of which it may be a part, but of which there is no ownership interest in the common areas of the facility in the owner of the individual dwelling unit.

Unacceptable waste means items which are not appropriate for disposal through this means and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, as amended, and hazardous waste.

Unit means one single-family residence or an individual apartment, motel room or suite, mobile home, townhouse, patio house, condominium, cluster home in a multifamily residence, unless otherwise specified by the Town.

Waste means all useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural and residential activities.

White goods mean large household appliances, regardless of actual color, including, but not limited to, refrigerators, stoves, washers, dryers, etc.

Yard waste means vegetative matter and other materials generated while providing normal maintenance to the yard areas adjacent to a single-family residential unit without earth, soil or other mineral matter attached thereto, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, and shrubs. This shall not include plastic or synthetic fibers, lumber, rocks, gravel, dirt or tree or shrubbery remains except as specifically authorized herein, or soil contaminated with hazardous waste.

Section 8-4002. – Nuisance

Any condition specifically declared to be a danger to the public health, safety, morals and general welfare of inhabitants of the Town and a public nuisance by the Town Council or is in violation of any Town, county or state health regulation is considered to be a nuisance, as follows, but not limited to:

(1) Unfit Habitat

- (a) Whatever renders the air, food or water unwholesome.
- (b) Whatever building, erection, structure or part of cellar thereof is overcrowded or not provided with adequate means of ingress and egress or is not sufficiently supported, ventilated, drained, cleaned or lighted.

- (c) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety or welfare of citizens and the peace and dignity of the Town.

(2) Unsanitary, stagnant, or inhibited water

- (a) Any stagnant water, to include all cellars and foundations of houses whose bottoms contain stagnant or putrid water.
- (b) Disease vectors. An open place of collection of water where insects tend to breed; permitting of any stagnant water, filth or any other matter harmful to health or comfort to remain on the premises of the owner or premises under control by the owner or person in control within the corporate limits after twenty-four (24) hours' notice of such condition;
- (c) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall discharge any petroleum products, chemicals or other such substances which would or could pollute any creek or stream within the zoning jurisdiction of the Town.
- (d) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the Town by throwing or placing stumps, brush, rubbish, litter or other material within or along the banks of any such stream or natural drainage way.
- (e) Any improper or inadequate drainage on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other Town-owned property of any kind; provided, that the notices required and powers conferred by this chapter by and on the public official in abating the nuisances defined by this paragraph shall be given and exercised by the Town manager or the director of public works;

(3) Rats, snakes, carcass and feral animals:

- (a) Any building or premises which is constructed or maintained in such a manner so as to provide food, shelter or protection for rats.
- (b) Firewood, if stored outdoors, shall be stacked orderly to prevent wildlife habitat.
- (c) Hides, dried or green, provided the same may be kept for sale in the Town when thoroughly cured and odorless;

(4) Junk:

- (a) Any furniture originally intended for indoor or interior use, outdoor furniture in disuse or disrepair,
- (b) Seating removed from motor vehicles,
- (c) Storage containers,
- (d) Automotive parts and/or supplies,
- (e) Inoperable appliances, exercise equipment.
- (f) Other metal products of any kind or nature kept within an open place which have jagged edges of metal or glass, or areas of confinement.
- (g) Junked motor vehicles on public grounds and private property (Reference Section 2: Abandoned, Junk and Nuisance Motor Vehicles).

(5) Plant Overgrowth

- (a) Weeds, grasses and/or other vegetation on one's residential, business, or vacant lot which is over 8 inches in height on the average or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter or as a fire hazard.. It will be the responsibility of the owner to cut and remove all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this section. This provision shall not apply to lots greater than one acre, but shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if and only if the adjacent property is occupied by a dwelling or other structure located within 50 feet of such property. This provision will not apply to wooded vacant lots that are more than 75 percent covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance dangerous or unsafe. Furthermore this provision will not apply to vacant lots that are larger than three acres in size (i.e. Golf courses, farmland, vineyards, etc...). Natural means of plant removal is permitted on parcels of land greater than 200 acres;
- (b) A place of vines, shrubs or other vegetation over eight inches in height when such vines, shrubs or vegetation are a focal point for any other nuisance enumerated in this Code; provided, the nuisance herein defined by this subsection shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;
- (c) A place of growth of noxious vegetation, including poison sumac (*Rhus vernix*), poison ivy (*Rhus radicans*) or poison oak (*Rhus Toxicodendron*), in a location likely to be accessible to the general public;
- (d) Any hedge, shrubbery, tree or plant along any street, alley or sidewalk planted closer than 18 inches or extending closer than 12 inches or lower than 14.5 feet to such street, alley or sidewalk, or any of the above-mentioned vegetation that obscures clear vision as located within the protected sight distance triangle.

(6) Trash and waste.

The storage of garbage and trash in containers as prescribed by this chapter and the regular collection thereof by the Town upon payment of fees and charges as provided in this chapter are hereby declared to be essential to the efficient operation of the Town and to the prevention of disease and protection to the public health. Any accumulation of rubbish or trash causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind.

- (1) Scattering of garbage or trash, storage of garbage or trash except in containers as provided by this chapter, or the accumulation of trash by reason of nonpayment of fees or charges for its removal is hereby declared to be a nuisance and a violation of this chapter.
- (2) Under no circumstances shall trash or garbage be allowed to accumulate or be stored for a period longer than 30 days.
- (3) Under no circumstances shall trash or garbage be dumped or stored on any right of way or in any alley or on any lot without being placed in proper containers as prescribed herein.

- (4) No industrial wastes, manure, debris from construction or repair work, leaves, trees or tree trimmings may be dumped or stored on any within any right of way or in any alley.
- (5) No owner or occupant of any premises shall prohibit or prevent weekly solid waste collection services at the premises.
- (6) An open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind.

(7) Public streets maintenance

- (a) Failure to clean or clear a public street, property, and adjoining sidewalks of any earth, sand or mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the Town for major and minor thoroughfares or within 24 hours after such notification for collector and local streets; however, if it is found by the Town that the situation is causing a clear and present danger or hazard to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable. This provision does not preempt any applicable federal, state, or county regulations applicable to said events.
- (b) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(8) Odor

- (a) Unsightly litter, foul or offensive odors which remain upon or emanate from a property.
- (b) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.

(9) Construction materials: Lumber and building supplies, earth, sand and/or gravel on construction sites where the work is discontinued for a period of 60 days

(10) Graffiti, It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti.

(11) Animals sanitation:

- (a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposed of in a lawful manner.
- (b) Any person, while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property without the permission of the private property owner, shall have in possession a bag or other container that closes, which is suitable for removing feces deposited by the dog.
- (c) The provisions of this Section shall not apply to visually impaired persons using dogs as guides.

(12) Abandoned Manufactured Homes, reference Article 5

State Law reference— Similar provisions, G.S. § 160A-193

Section 8-4003. – Exceptions

Exceptions. The provisions contained in subsection 1.02. 4: Junk and 6: Trash and debris, shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects and who have obtained all applicable zoning and operating permits and are following all applicable ordinances contained within the Code of Ordinances and the Zoning Ordinance. In addition, the provision contained in subsection 1.02.7.a. shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized and maintained by the North Carolina Department of Transportation or the municipality.

Section 8-4004. – Notice.

- (a) Whenever the code enforcement officer or appointed designee has determined that the conditions on a particular lot or parcel of land are a nuisance and should be abated or otherwise corrected, the code enforcement officer or appointed designee shall give notice to the owner, lessee or other person in possession of the premises in writing setting forth the findings and describing the appropriate corrective action. The code enforcement officer or appointed designee may establish a deadline, not to exceed sixty (60) days, for the abatement of the nuisance.
- (b) The notice may be served upon the owner, occupant or person in possession of the premises by at least one (1) of the following methods:
 - (1) By delivering a copy of the notice to the person or by leaving copies of the notice at the person's residence; or
 - (2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the person to be served and delivered to the addressee; or
 - (3) By delivering a copy of the notice to any official, employee or agent of a corporation, partnership or business; or
 - (4) If, after a due and diligent effort, the person cannot be located, by posting a copy of the written notice in a prominent place upon the real property.

Sec. 8-4005. - Removal or abatement of nuisances.

Upon investigation and discovery of any of the conditions deemed a nuisance, the code enforcement officer or appointed designee shall make a written report of his findings and may order that appropriate corrective action be taken, including the removal or abatement of such conditions by the person creating the nuisance or by the owner, occupant or other person in possession of the premises on which the nuisance is located. Prompt abatement is required within 10 days from the receipt of such written notice.

Sec 8-4006. – Chronic Violator

The Town may notify a chronic violator of the Town's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the Town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Town gave notice of violation at least three times under any provision of the public nuisance ordinance.

State Law reference— Similar provisions, G.S. § 160A-200.1

Sec. 8-4007. - Removal or abatement of other conditions.

Prior to ordering the removal of conditions which do not threaten the public safety or pose a general threat to the health, safety and general welfare of the citizens of the Town, the code official or appointed designee shall first determine that such conditions are visible from adjacent property or from a nearby street or highway and that the benefits of removing or correcting the conditions outweigh the burdens imposed upon the private property owner. Such findings shall be based upon a balancing of the monetary loss of the owner against the corresponding gain to the public by promoting or enhancing the community, neighborhood or area appearance, including protection of property values, indirect protection of public health and safety, preservation of the character and integrity of the community and the promotion of comfort and quality of life of area residents.

Sec. 8-4008. - Appeal.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the code enforcement officer to the Board of Adjustment (BOA) by appearing before the BOA at the appeal hearing date and time given on said notice. The abatement of the nuisance will be postponed by the code enforcement officer until the final determination for the appeal is made by the BOA. The BOA will need to make a 4/5 finding to overturn the code enforcement officer's ruling. In the event no appeal is taken within the time period stated to abate, the code enforcement officer may proceed to abate the nuisance.

Sec. 8-4009. - Removal by Town.

If any person, having been ordered to abate a public nuisance pursuant to this chapter, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order, the designee may cause such condition to be removed or otherwise remedied by having employees of the Town or contracted work go upon such premises and remove or otherwise abate such nuisance under the supervision of an official or employee designated by the code enforcement officer. Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the Town, in writing, to remove such condition, the cost of which shall be paid by the person making such request. The Town may require such requestor to deposit some or all of the estimated cost of such removal, prior to doing the work, or may require the requestor to execute an agreement giving security for the payment of such costs.

Sec. 8-4010. - Emergency action.

Notwithstanding the provisions of section 1.09, the code enforcement officer or appointed designee shall have authority to summarily remove, abate or remedy or cause to be removed, abated or remedied, any condition that is dangerous or prejudicial to the public health or public safety.

Sec. 8-4011. - Penalties.

- (a) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00). Violators shall be issued a written citation which must be paid within seventy-two (72) hours of receipt. Such citation shall be served by either first class mail, personal service or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.
- (b) Each day's continuing violation shall be considered a separate and distinct offense.
- (c) Notwithstanding subsection (a) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

- (d) In addition to or in lieu of remedies authorized in subsections (a) and (c), violations of any articles of this chapter may be prosecuted as a misdemeanor or otherwise in accordance with G.S. §160A-175.

Sec. 8-4012. - Right of entry.

The code official or appointed designee is hereby given full power and authority to enter upon the premises upon which a nuisance is found to exist under the provisions of this chapter for the purpose of abating the nuisance as provided in this chapter.

Sec. 8-4013. - Cost of abatement declared lien.

- (a) The actual cost incurred by the Town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land, and it shall be the duty of the finance department or public services department to mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.
- (b) If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes
- (c) The procedure set forth in this chapter shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this chapter shall not prevent the Town from proceeding in a criminal action against any person violating the provisions of this chapter.
- (d) All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any part of this ordinance shall be adjudged invalid, such adjudication shall apply only to such part so adjudged and the remainder of the ordinance shall be deemed valid and effective.

State Law reference— Authority for abatement of public nuisances, G.S. § 160A-193.”

ADOPTED THIS, THE 6TH DAY OF MAY, 2019.

JOHN F. BLACK, JR., Mayor

ATTEST:

Town Clerk

(corporate seal)

RESOLUTION AMENDING CHAPTER 6 OF PART 8
OF THE CODE OF ORDINANCES OF THE TOWN OF VALDESE

IT IS HEREBY RESOLVED that Chapter 6 of Part 8 of the Code of Ordinances is amended to read as follows:

“PART 8 – OFFENSES

CHAPTER 6 – OTHER GENERAL NUSIANCES

Sec. 8-6021. Storage and removal of junk.

(a) No junk or any vehicle, including automobiles and trucks, shall be burned in or on any premises occupied as a junkyard.

(b) The maintenance of wrecked or unusable automobiles and other junk items as described herein shall be allowed by auto wrecking yards, salvage yards or junkyards; provided that such business is a properly licensed business, and provided also that all open storage of such items must be completely screened from public view by topography, by pregrown planted screens, or by a fence maintained in good repair, which shall not be used as a signboard or signboards or used for advertising purposes. (Ord. Of 10-9-78).”

ADOPTED THIS, THE 6TH DAY OF MAY, 2019.

JOHN F. BLACK, JR., Mayor

ATTEST:

Town Clerk

(corporate seal)

Memorandum

TO: Chip Black, Mayor
Valdese Town Council

FROM: Larry Johnson, Planning Director

DATE: May 2, 2019

SUBJECT: Conditional Use Permit 1-4-19
Multi-family Development in B-2 General Business District

APPLICANT:

Striker Properties, LLC

PROPERTY OWNER:

Striker Properties, LLC

REQUEST:

Applicant requests a Conditional Use Permit to allow a 60-unit multi-family project in the B-2 General Business District.

LOCATION:

108 Praley St SW and Waldo St (Adjacent Parking Lot).

LAND USE AND ZONING:

The property in question is comprised of two parcels totaling 1.53 acres. These properties were recently rezoned to B-2 General Business from M-1 Manufacturing.

SURROUNDING ZONING:

North: B-1 Central Business

South: M-1 Manufacturing

East: B-1 Central Business and M-1 Manufacturing

West: B-1 Central Business

SURROUNDING LAND USES:

North: Commercial - BP Gas Station and Family Dollar (Dollar Tree)

South: Manufacturing – Valdese Packaging & Label, Incorporated

East: Retail and Residential – Debbie Huffman Dance Studio, Single Family Dwelling

West: Retail – AutoZone Automotive parts

TRANSPORTATION:

Traffic counts provided by NCDOT show an average daily count of 11,000 cars on Main Street SW, from Praley St. to Church Street, and an average of 1,000 cars on Praley Street from the intersection of Praley Street SW and Saint Germain Avenue SW.

To obtain a Drive Way Permit for the property, NCDOT will require the developer or property owner to: (1) conduct a TIA (Transportation Improvement Analysis) study to determine the impact of a 60-unit multifamily complex on the NCDOT road system, and (2) submit a Drive Way Permit Application and have that application approved.

UTILITIES:

The Town of Valdese has the capacity and will provide water and sewer services. This area is being served with a 6-inch water line and an 8-inch sewer line. One master meter is being proposed in lieu of 60 individual meters.

LAND USE PLAN:

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

CONDITIONAL USE REQUEST HISTORY:

There is no conditional use history on these parcels.

APPLICABLE CODE SECTIONS:**Section 9-3056 General Business District (B-2)**

- 1) The intent of the General Business District is to encourage the establishment of areas for general business that do not require a central location. These districts are normally located along major radial highways leading out of town where they provide retailing goods and services to the traveling public and local residents.
- 2) Uses permitted with a conditional use permit: Multi-family building.

Article F Off-Street Parking Requirements

- 1) 9-3071 Parking Spaces to be Required and Permanent
 - i) Off-street parking space shall be provided in accordance with Article F in all districts except B-1 Central Business District.
 - ii) The off-street parking space required shall be permanent spaces and shall not be used for any other purpose.

- iii) Each parking space shall be 30 degrees, 60 degrees, or 90 degrees and a minimum of nine (9) feet by eighteen (18) feet if angled. If paralleled, the parking space must be a minimum of seven (7) feet by twenty-two (22) feet.
- iv) Required off-street parking spaces for any use shall not be located more than 400 feet from the use they are intended to serve.

2) Section 9-3074 Schedule of Parking Spaces

- i) Off-street parking spaces shall be provided and permanently maintained by the owners and occupants of the following use classifications:
Residential – two (2) spaces for each dwelling unit.

3) Section 9-3076 Parking Lot Design Requirements

- i) Off-street parking areas should be designed to create a safe and comfortable passage for the pedestrians. All off-street parking lots, including exits, entrances, drives and parking areas shall
 - a) Allow for traffic movement in accordance with generally accepted design principles.
 - b) Have physical access to a public street.
 - c) Be designed so that storm water runoff from the parking area does not create erosion, flooding, or other nuisance conditions.
 - d) Off-street parking areas, loading, egresses and ingresses, shall be paved with asphalt or concrete.
 - e) Be maintained as long as the use, which it serves exist. Each parking space shall be marked and maintained.
 - f) Unless otherwise required, all off-street parking with more than ten (10) automotive vehicles that adjoins any plot of land zoned or used for single family residential purposes, shall be screened with landscaped devices.

4) Section 9-3077 Landscaping of Parking Area

- a) Landscaping shall not obstruct the view of motorists using any street, private driveway, parking aisles or the approach to any street intersection so as to constitute a traffic hazard.
- b) Meet landscaping requirements for interior areas of parking areas. Interior areas are defined as the areas within the property used for vehicular storage, parking or movement.

- c) Meet landscaping requirements for street yards of parking areas. Street yards are **defined** as the area between the public right-of-way and interior areas.
 - d) Adhere to Tree and Shrub specifications.
 - e) Meet the abutting property landscaping requirements.
- 5) Section 9-3147 Conditional Uses
- i) The Valdese Town Council shall grant in particular cases and subject to appropriate conditions and safeguards, permits for conditional uses as authorized by this Valdese Zoning Ordinance and set forth as Conditional Uses under various use districts.

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

- 1) The use will not adversely affect the health, or safety of persons residing or working in the neighborhood of the proposed use.

Applicant complies. (9-147.4)

- 2) The use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.

Applicant complies. (9-3147)

- 3) The use, which is listed as a conditional use in the district in which it is proposed to be located, complies with all required zoning standards.

Applicant complies or agrees to comply. (9-3147)

TO ASSURE THAT THE PROPOSED USE WILL CONFORM TO THE REQUIREMENTS AND SPIRIT OF THE CONDITIONAL USE ORDINANCE, THE FOLLOWING SPECIFIC CONDITIONS ARE SUGGESTED:

- 1) Applicant shall secure and maintain two (2) permanent parking spaces for each dwelling unit. Required off-street parking spaces for any use shall be located no more than 400 feet from the use they are intended to serve.

Applicant is attempting to comply. The project consists of sixty (60) units. Applicant has sixty-two (62) parking spaces on site and has leased fifty-eight (58) parking spaces at the vacant Alba Waldensian office (less than 400 feet from property site).

- 2) Off-street parking areas should be designed to create a safe and comfortable passage for pedestrians.

Applicant agrees to comply. See 9-3076 Parking Lot Design Requirements

- 3) The landscaping requirements shall comply with multi-family developments.

Applicant agrees to comply. See 9-3077 Landscaping of Parking Area

- 4) One master meter will service the apartment units.

Applicant agrees to comply.

- 5) The applicant must seek approval from the North Carolina Department of Transportation.

Applicant agrees to comply. The applicant agrees to secure from NCDOT a driveway permit and conduct a Transportation Improvement Analysis Study.

- 6) Public Works shall not be responsible for any garbage pick-up or rough trash services.

Applicant agrees to comply. The applicant agrees to contract with a private contractor for the garbage and rough trash services.

- 7) A management office will be located onsite.

Applicant agrees to comply.

REVIEW/DISCUSSION:

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

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

The project will include 60 housing units in the building located on the property. The proposed development is permitted with conditional use approval from Valdese Town Council.

The project must meet or exceed all zoning requirements of the B-2 General Business District and Article F Off-Street Parking. Based upon the projection of 60 units, two parking spaces must be made available for each apartment, a total of 120 parking spaces. This parking area requirement can include off-street parking located no more than 400 feet of the project. The minimum area for each parking space shall be 9ft x 18ft.

Traffic counts show an average daily count of 11,000 cars on Main Street West and an average daily count of 1,000 cars on Praley Street SW. The North Carolina Department of Transportation will require the applicant to seek a driveway permit and conduct a traffic analysis study.

The Town of Valdese Public Works Department has stated that the property is served by a 6-inch water line and a 3-inch meter. Public Works agrees to one master meter serving the building in lieu of sixty (60) individual meters. If additional utility upgrades are required, the expense will be the responsibility of the developer.

The proposed project is consistent with Valdese's Master Land Use Plan for added residential property along Main Street that would provide downtown residential housing within walking distance of food and retail businesses along the Main Street corridor.

Finally, other elements related to this project, including appearance, density, tenure type, etc. are outside to the scope of zoning.

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed the Conditional Use Permit Application on Tuesday April 23rd. The Planning Board recommended approval with conditions as set forth by planning staff.

PROPOSED FINDINGS OF FACT:

- 1) That on April 11, 2019, the applicant applied for a Conditional Use Permit to allow a 60-unit Multi-family Residential development.
- 2) The parcels on which the development is proposed total 1.53 acres and can be further identified by Burke County Record Numbers 31001 and 30876. The parcels are located at 108 Praley Street SW and Waldo Street.
- 3) The Valdese Town Council has heard sworn testimony including testimony by staff and the applicant.

- 4) The Valdese Planning Board reviewed the application on April 23, 2019 and recommends approval by the Valdese Town Council with conditions.
- 5) The B-2 General Business District allows Multi-family Building as a conditional use.
- 6) The use will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use.
- 7) The use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood.
- 8) The proposed residential use is consistent with the Valdese Vision Land Use Action Plan, which identifies the future use of this property as residential.
- 9) The area in question is served by a 6-inch water line and an 8-inch sewer line.
- 10) The Town of Valdese has the capacity to provide the water and sewer services required by the project.
- 11) One master meter is proposed in lieu of 60 individual meters. Valdese Public Works agrees with the use of one meter provided that any utility upgrades are the responsibility of the developer or property owner.
- 12) Traffic counts in the area show an average daily count of 11,000 cars for Main Street West, and an average daily count of 1,000 cars on Parley Street SW.

PROPOSED CONDITIONS:

- 1) Two permanent parking spaces shall be secured and maintained for each dwelling unit as required by Section 9-3074 of the Code of Ordinances.
- 2) The development shall comply with all Off-Street Parking Requirements as outlined in Article F of Part 9 of the Code of Ordinances and with all other applicable parking requirement set forth in the Code of Ordinances.
- 3) The developer shall seek and obtain all approvals required by the North Carolina Department of Transportation.
- 4) Valdese Public Works shall not be responsible for any garbage pick-up or trash services.
- 5) The developer shall provide one master meter for the building.

- 6) All utility upgrades shall be responsibility of the developer or property owner.
- 7) A property management office shall be maintained onsite.

MEMORANDUM

TO: Seth Eckard, Town Manager

FROM: Alan Wood, BDI President

DATE: May 2, 2019

SUBJECT: Burke Business Park Agreement Amendment

During our efforts to locate new businesses in the Burke Business Park, it was determined that even though there is a 16 inch water line that was built to the site, there is insufficient flow to handle fire suppression for any industries that we would be locating in the park. To address this deficiency, it was determined that a 500,000 gallon water tank was needed. Total estimated cost for this is approximately \$2.5 M. We have been able to procure grant funds from the Industrial Development Fund (IDF) to cover 75% (\$1.97M) of the cost of the tank. Burke County and City of Morganton are working with us (with Burke County being the applicant for the grant) to cover the 25% match. What we are proposing and the reason for the amendment to the park agreement, would be to allow the county and City of Morganton to recoup the match funds from new tax revenues generated at the park when a new industry is located there. After the match is repaid, the revenue sharing agreement that currently exists would resume.

This allows us to move forward with the grant, with Burke County and the City of Morganton fronting the match and not requiring the other partners in the park to participate with up-front cash but delay their revenue sharing for a period of time (until the match is repaid.) This option was shared with the Burke Development Inc. board and is now being presented to each partnering councils to request their approval to the business park operating agreement.

NORTH CAROLINA

BURKE COUNTY

AMENDMENT TO INTERLOCAL ECONOMIC
DEVELOPMENT AGREEMENT FOR BURKE
BUSINESS PARK

That Interlocal Economic Development and Project Financing Agreement dated May 1, 2005, among Burke County, the City of Morganton, the Town of Valdese, the Town of Rutherford College, the Town of Drexel and the Burke Partnership for Economic Development, Inc. is hereby amended by adding to Article II thereof a new Section 6 to read as follows:

6. Reimbursement to Governmental Partners for Utility Construction.

Notwithstanding any other provisions herein to the contrary, if one or more of the Governmental Partners pays for all or part of the design, construction or installation of any water tanks, pump stations, water or sanitary sewer lines or other utility infrastructure required to provide service to potential industrial users within the Burke Business Park, then upon the subsequent sale of any tract or parcel within the Business Park, after the direct costs of sale have been satisfied, then from the net proceeds of such sale, such Governmental Partner(s) shall be reimbursed for the full costs incurred by such Governmental Partner(s) for such infrastructure, including, but not limited to, any "local match" required to obtain any federal or state grants for the financing of such projects. If the net sale proceeds from the sale of any tract(s) of the Business Park are insufficient to fully reimburse the paying Governmental Partner(s), then further payments shall be made from the net proceeds of any subsequent sales, until such costs are fully reimbursed. Once the paying General Partner(s) are fully reimbursed, any additional net proceeds from the sale of any tract(s) of the Business Park shall be held or disbursed as otherwise provided in this Article II.

Except as hereby amended, the Agreement of May 2, 2005 remains in full force and effect.

This the ____ day of _____, 2019.

BURKE COUNTY

By: _____
Chairman, Burke County Board of
County Commissioners

Attest:

(CORPORATE SEAL)

Secretary

CITY OF MORGANTON

By: _____
Mayor

(CORPORATE SEAL)

Attest:

Clerk

TOWN OF VALDESE

By: _____
Mayor

(CORPORATE SEAL)

Attest:

Clerk

TOWN OF RUTHERFORD COLLEGE

By: _____
Mayor

(CORPORATE SEAL)

Attest:

Clerk

TOWN OF DREXEL

By: _____
Mayor

(CORPORATE SEAL)

Attest:

Clerk

BURKE PARTNERSHIP FOR
ECONOMIC DEVELOPMENT, INC.

By: _____
President

Attest:

(CORPORATE SEAL)

Secretary