

**Planning Board  
Agenda  
August 15, 2016  
4:00 PM**

**I Call To Order**

**II Introductions of new Board Members**

Paul Mears – Member  
Carlton Caruso – Alternate

**III Approval of Minutes: April 25, 2016 Meeting**

**IV Updates**

Lake Front Subdivisions  
Valdese Library Project  
Pedestrian Plan  
Blue Ridge HealthCare – Flexibility Option  
Draughn High School Signage  
Burke Mills Property

**IV Planning Board Agenda 2016-2017**

Political Signs (Reed v. Town of Gilbert)  
Tiny Homes  
Food Trucks  
Central Business District Setbacks  
Downtown Appearance Criteria  
Subdivision Regulations Updates  
Sidewalk Requirements in PUD Residential  
Land Development Plan Recommendations

**VI Adjournment**

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## Coates' Canons Blog: Sign Litigation: A Brief Analysis of Reed v. Town of Gilbert

By Adam Lovelady

Article: <http://canons.sog.unc.edu/sign-litigation-a-brief-analysis-of-reed-v-town-of-gilbert/>

This entry was posted on July 21, 2015 and is filed under Constitutional & Statutory Limitations, General Local Government (Miscellaneous), Land Use & Code Enforcement, Zoning

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Temporary yard signs are springing up all around town. Town council wants to reduce the clutter, but also wants to respect the free speech rights of the community. Council is considering new rules that will allow *campaign signs* during election season, *event signs* within a day of the event, and *ideological signs* anytime. It seems like a reasonable balance—allowing the signs but limiting them to a relevant time-frame. Can the town's regulations distinguish among signs this way?

A recent U.S. Supreme Court decision says no. Such distinctions are unconstitutional content-based regulation of speech.

To be clear, every sign ordinance distinguishes among signs. Ordinances commonly distinguish between locations (commercial property, residential property, public property, etc.), between types of signs (free-standing, wall signs, electronic signs, etc.), and between messages on the signs (commercial, safety, political, etc.). Reasonable distinctions concerning *location* and *types* of signs remain permissible.

The *Reed* decision, though, clearly invalidated some distinctions based on the message content of signs, and it will require adjustments to many local ordinances and some state statutes. The decision, with its four separate concurring opinions, also left open several legal questions.

This blog considers the decision of [Reed v. Town of Gilbert, 576 U.S. \\_\\_\\_ \(2015\)](#), and its impact on local sign ordinances.

### **Context of Free Speech Caselaw**

In thinking about the *Reed* decision it is helpful to recall a few key points about Constitutional protections of free speech and local government sign regulation. This area of the law is complex—far beyond the scope and space of this blog—but some context is helpful in understanding the impact of the new decision.

**Content-Neutral Sign Regulations.** Some sign regulations concern the form and nature of the sign, not the content of the message. These regulations—called *reasonable time, place, or manner restrictions*—include regulation of sign size, number, materials, lighting, moving parts, and portability, among other things. These regulations are allowed, provided they are “[1] justified without reference to the content of the regulated speech, [2] that they are narrowly tailored to serve a significant governmental interest, and [3] that they leave open ample alternative channels for communication of the information” (*Ward v. Rock Against Racism*, 491 U.S. 781, 791, 109 S. Ct. 2746, 2753, 105 L. Ed. 2d 661 (1989)). Over the years the courts have allowed a variety of content-neutral sign regulations.

**Content-Based Sign Regulations.** Some sign regulations, however, restrict the content of the message. The Supreme Court requires that content-based regulation of noncommercial signs must meet strict scrutiny. As phrased in the *Reed* majority opinion, a regulation is content-based if the rule “applies to a particular [sign] because of the topics discussed or the idea or message expressed” (slip op., at 6). The strict scrutiny standard demands that the local government must show that the regulation is (i) designed to serve a *compelling* governmental interest and (ii) *narrowly tailored* to achieve that interest. That is a steep hill to climb, and in practice few, if any, regulations survive strict scrutiny review.

It is worth noting that commercial speech is subject to yet another test—a version of intermediate scrutiny outlined in *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987). That test is described in David Owens' blog on [Offensive Signs](#), and as discussed below, the impact of the *Reed* decision on the *Central Hudson*

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test is unclear.

### **Case Summary**

The Town of Gilbert, Arizona, had a sign code requiring permits for signs, but outlining a variety of exemptions. The *Reed* decision focused on the exemptions for three types of signs: Political Signs, Temporary Directional Signs, and Ideological Signs. Under the local code, Political Signs were signs designed to influence the outcome of an election; they could be up to 32 square feet and displayed during political season. Temporary Directional Signs were defined to include signs that direct the public to a church or other qualifying event; they could be up to six square feet and could be displayed 12 hours before and 1 hour after the qualifying event. Ideological signs were defined to be signs that communicate a noncommercial message that didn't fit into some other category; they could be up to 20 square feet.

A local church—after being cited for violation of the rules for Temporary Directional Signs—challenged the sign code as abridging their freedom of speech. The Town argued (and the lower courts found) that its regulations were content-neutral. The distinctions among types of signs, they said, were based on objective factors not the expressive content of the sign. The distinctions did not favor nor censor a particular viewpoint or philosophy. And, the justification for the regulation was unrelated to the content of the sign.

Justice Thomas, writing for the Court, disagreed. He found that the distinctions were plainly content-based and thus subject to strict scrutiny. The distinctions—between Political Signs, Temporary Directional Signs, and Ideological Signs—“depend[ed] entirely on the communicative content of the sign” (slip op., at 7). “Regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints with that subject matter” (12). And, “an innocuous justification cannot transform a facially content-based law into one that is content neutral” (9).

In its failed attempt to meet the strict scrutiny standard, the Town offered two governmental interests to support its distinctions: aesthetic appeal and traffic safety. Even if these were considered compelling governmental interests (which the Court assumed without ruling), the Town's distinctions were not narrowly tailored. Justice Kagan noted in her own opinion (concurring in the judgment only) that the Town's distinctions did “not pass strict scrutiny, or intermediate scrutiny, or even the laugh test” (slip op., at 6, Kagan, J., concurring in judgment).

### **Impact of Local Ordinances**

So what does this decision mean for local ordinances? In the end, some distinctions among signs clearly are allowed and will withstand judicial review. Some code provisions, though, must be revised. And then, there are the open questions.

The Court was unanimous in judgment: The particular provisions of the Town of Gilbert's sign code violate Constitutional protections for free speech. The Court was fractured, though, in the opinions, making it harder to discern the full scope of the decision. Justice Thomas offered the majority opinion of the court with five justices joining. Justice Alito offered a concurring opinion to further clarify the impact of Justice Thomas' opinion. He was joined by Justices Kennedy and Sotomayor. Three justices concurred in judgment only, and they offered two separate opinions to outline their legal reasoning and their concerns with the majority's reasoning.

So we have a split court. Three joined the majority only; three joined the majority, but also joined an explanatory concurrence; and three disagreed with the majority's legal reasoning. This three-three-three split, unfortunately, causes even more head-scratching for an already complex topic.

**Content-Based Distinctions.** In thinking about your sign ordinance, ask this: Does this regulation apply to a particular sign because of the non-commercial content on the sign? If yes, the regulation must meet strict scrutiny under *Reed*. The government must show that the regulation is designed to serve a *compelling* governmental interest and *narrowly tailored* to achieve that interest.

If your ordinance distinguishes among noncommercial sign types—political v. ideological v. religious—those distinctions are unconstitutional and must be changed.

Justice Thomas did offer some content-based regulations that may survive strict scrutiny if they are narrowly tailored to address public safety. These include warning signs for hazards on private property, signs directing traffic, or street

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numbers associated with private houses.

**Content-Neutral Distinctions.** The several opinions of the court outline some valid distinctions for regulation. In his majority opinion, Justice Thomas noted that local governments still have “ample content-neutral options available to resolve problems with safety and aesthetics” (slip op., at 16). These include regulation of, among other things,

- size
- building materials
- lighting
- moving parts
- portability

Moreover, “on public property the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner” (slip op., at 16). A local ordinance or state statute can prohibit all signs in the public right-of-way. But, if signs are allowed, the regulations must not distinguish based on the content of the message. Regulations that allow some, but not all, noncommercial signs run afoul of the *Reed* decision.

For example, NCGS § 136-32 allows for “political signs” (as narrowly defined) in the public right-of-way of state highways during election season. That statute and similar ordinances will need to be revised to either, prohibit all signs in the right-of-way, or allow compliant signs with any noncommercial message in the right-of-way during election season.

Justice Alito, in his concurring opinion, provided further explanation (although not an exhaustive list) of what distinctions may be valid, content-neutral distinctions. He included:

- Size (including different sizes for different types of signs)
- Location, including distinguishing between freestanding signs and attached signs
- Distinguishing between lighted and unlighted
- Distinguishing between fixed message and electronic signs
- Distinguishing between signs on public property and signs on private property
- Distinguishing between signs on commercial property and signs on residential property
- Restricting the total number of signs allowed per mile of roadway
- Distinguishing between on-premises and off-premises signs\*
- And time restrictions on signs advertising a one-time event\*

\* These last examples—distinguishing between on-premises/off-premises and restricting signs for one-time events—seem to conflict with the majority opinion in *Reed*. Here, we get back to the issue of the fractured court and multiple opinions (discussed below).

## **Open Questions**

### ***Content-ish Regulations***

Justice Alito’s concurrence (discussed above) listed many regulatory distinctions that are clearly authorized. He listed two distinctions that do not clearly square with the reasoning of the majority opinion. But, if you consider the three justices concurring with Alito plus the three justices concurring in judgment only, there are six justices that took the question of content neutrality with more practical consideration than Justice Thomas’ hard line. Thus, Alito’s opinion may in fact hold the greatest weight of this case. Only time will tell—time and more litigation.

First, Justice Alito listed signs for one-time events. This seems to be precisely what the majority stuck down in this case. It is unclear how a local regulation could structure such regulation without relying on the content of the message itself. But the inclusion on Justice Alito’s list points to some room for defining signs based on function.

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And second, Justice Alito listed the distinction between on-premises and off-premises signs. The enforcement officer must read the sign in order to determine if a sign is off-premises or on-premises. As such, these would seem to be facially content-based and subject to strict scrutiny. But, prior Supreme Court caselaw has upheld the on-premise/off-premise distinction and that precedent is not overruled by the majority opinion.

**Commercial and Noncommercial Speech.** In past decisions the Supreme Court has treated commercial speech to slightly less protection than noncommercial speech. Commercial speech regulation needs to meet a version of intermediate scrutiny, not the strict scrutiny applied to regulation of non-commercial speech (See, generally, *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1987)).

Arguably, the *Reed* decision opened the door to challenge a sign ordinance that distinguishes between commercial and noncommercial speech. Justice Alito's concurring opinion noted that distinguishing based on the *type of property*—commercial or residential—would be valid. Regulating based on the *content of the sign*—commercial or noncommercial—arguably is undermined by the *Reed* decision.

Notably, though, the majority in *Reed* did not overrule its prior decisions. The *Reed* decision was focused on the Town code's distinctions among types of noncommercial speech. Presumably the long-held standards for regulation of commercial speech still apply.

### **Conclusion**

In the wake of *Reed*, some things are clear. Governments still have an array content-neutral regulations to apply to signs. But, content-based distinctions such as the ones in the Town of Gilbert's code must survive strict scrutiny to stand. Because of mix of opinions from the Court, there are several open questions. We will not know the full scope and meaning of *Reed v. Town of Gilbert* until the federal courts begin to apply this decision to other sign litigation.

### **Links**

- [www.supremecourt.gov/opinions/14pdf/13-502\\_9olb.pdf](http://www.supremecourt.gov/opinions/14pdf/13-502_9olb.pdf)

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## Planning February 2016

### IN THIS ISSUE:

[Tiny Houses: Niche or Noteworthy?](#)

# Tiny Houses: Niche or Noteworthy?

These darling dwellings have gotten a lot of attention, but their fanatic followers just might be on to something.

*By Anne Wyatt*

Tiny houses — loosely defined as abodes with less than 500 square feet — are on a roll. Cool and often over-the-top cute, they star in a number of television shows and documentaries. The first National Tiny House Jamboree (Colorado Springs, August 7–9) drew 40,000 participants. Hardly a day goes by that a tiny house photo doesn't show up in a news feature or my inbox. Advocates call their fascination a "movement," even.

Getting at just how many there are is difficult. Many people live in tiny houses of the not-so-cute variety — toolsheds, parked RVs, and other under-the-radar, small structures used as dwellings — and they tend to keep mum about it. Perhaps the appeal of the simple life ties in with living quietly, especially if you don't want to tangle with code enforcers.

But interest is increasing. One indicator is the experience of Ross Beck, of Tumbleweed Tiny Homes in Sonoma, California: He says that the company had received 19,000 inquiries about tiny homes as of last October.

The tiny house movement is definitely worth a closer look. Tiny house living offers a wealth of potential benefits and solutions to a range of housing challenges; they are more economical and sustainable than conventional housing and add to the range of housing choices available.





This tiny house has one bedroom, one bath, one floor, and 404 square feet. Courtesy Tumbleweed Tiny House Company.

### **A niche for women and millennials**



"I might rather have a composting toilet than a mortgage," says enthusiast Rachel Carrigan, a single woman in her 30s who is constructing her own home in upstate New York. This explains some of the appeal, especially to women buyers, less willing or able than their male counterparts to assume debt. (According to the information services company Experian, men carry 4.9 percent more loan debt than women.)

That jibes with what tiny home builders say. Bo Bezdek reported in an April 2015 article in *Austin Woman Magazine* that 80 percent of his home buyers are women; Beck, at Tumbleweed in Sonoma, reports a 65 percent or higher rate of female buyers.

Jan Burton, owner of Rhino Cubed, a company that converts shipping containers into tiny homes, says only 28 percent of owners of tiny homes have mortgages, compared to more than two-thirds of other home owners. The lower cost of the smaller homes helps; while frugal self-builders boast of homes constructed for under \$20,000, most manufactured homes sell from about \$20,000 — for a no-frills unit — to \$80,000 for more amenities.

Millennials have different ideas about housing than their elders. The website of the Millennial Housing Lab ([www.millennialhousinglab.org](http://www.millennialhousinglab.org)) (<http://www.millennialhousinglab.org>) at Harvard sums up changes: "We are trading stability for experience ... seeking community ... delaying marriage, career tracks and all other forms of settling down ... following our dreams, building the future, living an authentic life, and having a purpose greater than ourselves." The tiny house fits into this paradigm. Lab students have created two models, which can be rented nightly for tiny house living trial runs.



Heather Stewart at her home in Containertopia, a village of 160-square-foot shipping containers, in Oakland, California. These containers and tiny houses on wheels are making a mark in a city where rents are rising with an influx of newcomers. Photo by Jim Wilson/*The New York Times*.

### **Dreams and reality**

The tiny house movement can't float endlessly in a vacuum. Talk of eco-friendly simplicity merges with practicality, and brings reason for concern. Infrastructure, zoning, minimum size requirements, and community issues — often missing in the jargon — need consideration.

Tiny home dreamers may be less enthusiastic after actually living in one. Hauling water in, wastes out, and scrimping on electrical appliances or going without because small solar arrays are underpowered may not be the dream they'd imagined. My own experiences living in tiny houses off and on over the last 20 years (before the marketing and the movement, we called them toolsheds) suggest, especially for short periods, that they can work well in good weather, in good health, and with adequate common infrastructure nearby.

But doing physical chores in less than robust health, feelings of isolation if far removed from others, and the constraints of small spaces in poor weather conditions may become challenging. And then there's the infrastructure issue: Photographs of tiny homes often depict them placed alone in natural settings, as if roads, garages for storage, water tanks, and other supports can be dispensed with.

As planners, we're not always quick to adopt useful trends. Trained to think critically, anticipate consequences, and mitigate problems, we should be asking questions and considering all options.

Do tiny house dreamers have their heads dangerously high in the clouds? Already, a number of tiny houses sit empty, with nowhere to legally house residents. There's one parked in a church parking lot near my house in San Luis Obispo, California, constructed by the nonprofit Hope's Village, which aims to start a small community nearby. The irony of the home's emptiness struck me, as it sat empty by the church — which itself served 30 clients nightly as an overflow homeless shelter — in a county with amongst the highest percentage of homeless individuals in the nation.

Are we being cautious for good reason or impeding a movement that offers solutions to some of our greatest challenges — diversity of choice, affordable housing, and sustainability?

### **Tiny Houses, Big Benefits**

Living space may be at a premium, but advocates say that tiny houses offer plenty of worthy trade-offs.

**Economy:** They tend to cost less in materials and land than larger homes. If built efficiently and with high-quality materials, they also cost less to heat, cool, and maintain.

**Sustainability:** Smaller homes use fewer resources to construct and maintain, and more housing units can fit on less land, bringing a density benefit.

**Community:** Interest in the tiny house movement is split between people seeking community and those who want to get away from neighbors. Tiny house villages can serve community-minded residents, while individual homes on rural parcels offer privacy.

**Choice:** They increase housing options.

**Simplicity:** A smaller house can mean fewer repairs and reduced chores.

**Self-sufficiency:** The small, off-the-grid home surrounded by nature and fertile gardens offers potential for self-sufficient lifestyles.

**Customization/control:** If you're willing to hand over the money, you get a tiny house the way you want it — and with a Starbucks-like smile. On the television show *Tiny House Nation*, the keys to the tiny homes come with hugs from the show hosts. The desire for customization ties in with the desire for control over one's own housing choices.

**Ownership potential:** Because tiny homes often cost less than larger homes and can be purchased separately from land, they make home ownership possible for many who could not afford conventional housing.

**Mobility:** While moving homes isn't easy, many tiny homes are constructed on wheeled trailers. This appeals to homebodies who dream of going places. As with other manufactured housing, placement can become challenging.

### Notions about houses

For now, questions outnumber answers. This doesn't mean we shouldn't keep asking them. Adjusting our codes and our notions of safe, decent, and suitable housing may be what it takes to get more of our unhoused into homes. Micro living spaces stretch our notions, conflict with existing codes, and bring up liability issues.

### *Safe, decent, and suitable housing*

The Housing Act of 1949 set forth the federal goal of "a decent home and suitable living environment for every American family." Since then, quality standards in local, state, and federal codes (e.g., fixed heaters, running hot water, waste disposal, electricity, permanent foundations, so much square feet per resident) have quantified notions of "decent" and "suitable" — often invoked as "public safety" in terms of policing powers.

### *Infrastructure and utilities*

Where are the heated water and electricity going to come from, and what's going to happen to the wastes? Codes generally mandate these in every housing unit. In tiny house villages serving extremely low-income occupants, such as Portland's Dignity Village, these are provided in common areas, similar to a campground. Could we accept this?

### *Size and crowding*

Small houses are contrary to the usual assumption about size — that more is better. Noise, moisture accumulation and condensation, smells, and accessibility for the physically impaired underlie notions of "crowding." Community rules of conduct, clever design, and more single-person households can eliminate or mitigate these challenges. Some people specifically seek tight spaces. Is it really in the public interest to force people into larger spaces?

### *Zoning and building codes*

These are how we define allowable versions of "home" in our jurisdictions. Local codes protect not only safety for residents but also property values. This means keeping certain residents and home types out. A survey of codes shows that most have minimums that would make small houses illegal.

Room width and ceiling heights have a clear relationship to the height of most Americans. Anybody who's bumped a head on a low ceiling or had to try to sleep curled up can understand this. A safety argument in requiring large lot and home sizes and excessive widths of homes, however, is weak at best. As planners, we may want to question our implicit roles and conflicts in protecting property values over provision of decent housing for all Americans.

Other sticking points include requirements for permanent foundations. Part of the appeal of tiny houses for many is that they are mobile. Requiring permanent foundations defeats this. Grid-tied utilities requirements are another hurdle. This makes the additional goal of off-grid (decentralized) living impossible in many jurisdictions.

### *Community and camping*

Tiny houses offer options for community connectivity while still maintaining privacy and options for mobility. Think about camping: Americans pay upward of \$30 a night (which translates to nearly \$1,000 monthly) for a small patch of ground on which to pitch their own tent and park a car. Campers happily share bathroom facilities and cook outside. Why is it we frown on and often exclude people who choose to extend their happy camping experience to regular living? Camping spaces can be livable with necessary services, Internet reception, safe access roads, and mailboxes.

## **More Codes for Tiny Homes**

Other communities have shifted their codes to make space for these structures. Many are in Colorado, home of Sprout Homes, which is in the process of building tiny home communities in Salida, Walsenburg, and Buena Vista.

### **Walsenburg**

Home must be on a permanent foundation, tapped into municipal utilities, but can be any size in any residential zoning category. The city has paved the way for a tiny home community on the site of a high school football field, but a spokesperson says placing underground infrastructure is still a hurdle, so construction could be a ways out.

### **Salida**

In December, the city council began considering annexing 19 acres to accommodate Sprout Homes' Riverview at Cleora, a community of 200 tiny rental homes with common park and exercise areas, a restaurant, and storage.

### **Spur, Texas**

A 2014 resolution established the city as the "First 'tiny' house friendly town." The Spur ordinance says that the structures can be of any size or type, but do need to be attached to a permanent foundation within city limits and are subject to a city utilities fee, whether using them or not.



## What next?

We can help ensure that tiny house living is practical and actually works for people who choose it — as well as for their surrounding communities. Broadening our perspectives as planners and working past our own skepticism will be a start.

*Inventory our own prejudice, assumptions, and status quo bias.*

Are our assumptions about minimum home and room size evidence-based? Small spaces are probably a step up from sleeping on sidewalks for many and are clearly spaces many now choose — even Americans who are not economically challenged. Should these people effectively be locked out of houses in many jurisdictions?

*Survey places where tiny home communities work.*

Dignity Village (Portland, Oregon, since 2001); Quixote Village (Olympia, Washington, 2013 (see more about this community in "Housing for All," page 34); and Opportunity Village (Eugene, Oregon, 2015) have proven the concept's success. Mark Lakeman, an architect and planner involved with founding Dignity Village, offers a few suggestions for success: "Build community facilities first." It gets harder to build them, he says, if individual homes are constructed first. "Minimize car parking spaces and other spaces where junk can pile up. If it can, it will." Finally, "It took some hand holding," but Lakeman says it was gratifying to observe many village residents — initially unskilled in community building and management techniques — become highly skilled with training and assistance.

*Consider the tiny house movement within a broader context.*

Thoreau's story of building his small house on Walden Pond is one of our most enduring narratives. *Walden* speaks to appreciation of nature, simplicity, intention, and self-reliance. Today's tiny house movement shares similar values, even if many homes are not site-built by hand but are a type of manufactured home.

*Recognize life cycle and evolving housing needs.*

Thoreau lived on the pond for only two years. As with other housing types, there may be times in the life cycle when small homes work and times when they don't. Singles may enjoy their single-bed lofts and tight quarters; couples may need more separation; families with children may find it challenging; elders may be unable to climb stairs to reach their loft beds; and individuals may need proximity to nature and to community at different times. As planners, we can consider trade-offs and evolving needs.

*Do a cost-benefit analysis.*

Weigh potential risks of action against cost of inaction. Are we meeting our stated public policies — providing safe, decent housing to all Americans? A bold rethinking of our codes and attitudes may be warranted, particularly given the increasing numbers of unhoused and housing-challenged persons in the U.S. The shared bathing and cooking facilities of inexpensive tiny home villages work for many and compare favorably to having no such facilities on the streets.

*Consider use of emergency powers.*

People filling shelters and sleeping on our streets because they have no options for housing is a state of emergency. Los Angeles, recognizing this, declared a state of emergency in response to increasing numbers of homeless residents. Emergency powers could allow the issuance of temporary permits to nonprofit groups seeking to place tiny houses on designated plots of land. Nonprofit oversight bodies could ensure safety of residents and adjacent neighbors.

*Revisit building and zoning codes.*

"Get rid of minimum home sizes," Ross Beck of Tumbleweed Homes says, when asked about necessary code revisions. Shrinking minimum lot sizes, home widths, and room sizes could also help make smaller abodes legal.

*Adjust public facilities fees.*

In many jurisdictions, fees for small homes and larger ones vary little. This penalizes those who aim to keep their footprint small.

*Allow campgrounds and camping.*

Movable homes on wheels may never meet the definitions of "home" in some jurisdictions. Allowing legalized campgrounds in communities could provide access to housing. Fees, such as transient occupancy taxes, could be collected from residents at such sites to help defray public costs associated with additional residents.

The tiny house movement offers opportunity for planners to look at some of the planning assumptions and status quo factors that make tiny houses challenging to locate and live in. With active participation we can minimize risk and better meet more of our housing goals.

*Anne Wyatt is a housing policy planner based in San Luis Obispo. She can be reached at [a.renewyatt@gmail.com](mailto:a.renewyatt@gmail.com).*

### **How They Do It in Rockledge**

One Florida community has taken a big interest in little homes. Rockledge's code regulates these so-called "pocket neighborhoods," defined as clusters of from four to 12 tiny homes around common greens with an association to manage common spaces. See how they compare to more typical code requirements.

**Lot Sizes:** 1,200 minimum to 3,000 maximum square feet (often 5,000 square feet and up)

**Home Sizes:** 170 +100 square feet per extra person (from 700 to 1,100 square feet)

**Home Width:** 8.5 feet minimum to 20 maximum (14 to 20 feet)

**Room Size:** 70 or 50 square feet per person (70 to 150 square feet)

**Ceiling Height:** 6'8" to 7'6"

**Hallway Width:** 36 inches (36 inches)

## RESOURCES


"Tiny Houses, and the Not-So-Tiny Questions They Raise," *Zoning Practice*, November 2015: [www.planning.org/zoningpractice/open/pdf/nov15.pdf](http://www.planning.org/zoningpractice/open/pdf/nov15.pdf)  
(<http://www.planning.org/zoningpractice/open/pdf/nov15.pdf>)



American Tiny House Association: [www.americantinyhouseassociation.org](http://www.americantinyhouseassociation.org)  
(<http://www.americantinyhouseassociation.org>)


Tiny House Jamboree: [www.tinyhousejamboree.com](http://www.tinyhousejamboree.com)  
(<http://www.tinyhousejamboree.com>)

Experian, on debt, credit, and loan payment differences between women and men:  
<http://tinyurl.com/q4s6qnk> (<http://tinyurl.com/q4s6qnk>)



 (<https://www.facebook.com/AmericanPlanningAssociation>)

 (<https://www.youtube.com/user/AmericanPlanningAssn>)  ([https://twitter.com/APA\\_Planning](https://twitter.com/APA_Planning))

 (<http://instagram.com/americanplanningassociation>)

 (<https://www.linkedin.com/groups?gid=116818>)



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## Johnson, Larry

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**From:** Rhoney, Thelda  
**Sent:** Thursday, August 11, 2016 10:30 AM  
**To:** Johnson, Larry  
**Subject:** Minutes

### **TOWN OF VALDESE TOWN COUNCIL MEETING MARCH 7, 2016**

The Town of Valdese Town Council met on Monday, March 7, 2016, 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 Gary L. Delp, and Councilman Roy F. Sweezy. Also present were Town Manager Seth Eckard, Town Attorney Marc Mitchell, Deputy Town Clerk Thelda B. Rhoney, 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:**

**DOWNTOWN BUILDING CODES** Mr. David Wronko, 120 Davis Drive, SE, Valdese, said he served on the Small Town Design Committee and he found there were no downtown building codes. There were minimum setbacks and no maximum setbacks and nothing taller than 50 feet. There were two buildings built in the 1920s that defines our town center, the buildings were built by the sidewalks. His concern was the building at Faet/Main plus the two empty lots could end up with a drive-in/drive-out business, like Auto Zone. He recommended that Council adopt new codes, there was a maximum setback of five feet, the width of a sidewalk and zero setback on the sides of the buildings. Seventy percent of the storefronts are windows and of course this would only be applied to new buildings. He is working with a contractor in West Asheville on Haywood Road and they just enacted new codes and this was where he got his inspiration. He said Merrimon Avenue in Asheville had drive-in/drive-out businesses and they did not want that to happen on Haywood Road. He said West Asheville is a hot spot in Asheville. He recommended the four or five blocks on Main Street in Valdese be preserved.

Mayor Black asked Planning staff to look at this situation.

*Thelda B. Rhoney, MMC, NCCMC*

Deputy Town Clerk

TOWN OF VALDESE

E-mail: [terhoney@ci.valdese.nc.us](mailto:terhoney@ci.valdese.nc.us)

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## Erin O. Schotte

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**From:** Alan Glines <aglines@ashevillenc.gov>  
**Sent:** Thursday, July 14, 2016 2:12 PM  
**To:** Erin O. Schotte; 'Angi, Morrissa'  
**Cc:** 'David Wronko'  
**Subject:** this ordinance may be helpful for Valdese

Erin and Morrissa,

Thought this might be useful for considering a code change for Main Street in Valdese, taken from the City of Asheville code for the downtown area. I have revised our code to focus on what might best apply to Valdese.

For your consideration,

Alan

ALAN GLINES  
ASSISTANT DIRECTOR  
PLANNING AND URBAN DESIGN DEPARTMENT  
CITY OF ASHEVILLE  
(O) 259-5556  
AGLINES@ASHEVILLENC.GOV

- (1) *Density standards.* None.
- (2) *Structure size standards.* Not sure what Valdese needs here
- (3) *Lot size standards.* None.
- (4) *Lot width standards.* None.
- (5) *Setback standards.* The following minimum setbacks shall be required for uses in the Main Street Overlay District.  
Front:  
  
Minimum setback: Zero feet from the right-of-way line. For corner lots buildings are to be placed at the corner.  
  
Maximum setback: Zero feet from the right-of-way line. The following exceptions to the maximum setback may be permitted. The agency or official responsible for project review may consider allowing greater setbacks under one or more of the following circumstances:
  - a. A setback of up to 50 feet from the edge of the curb may be approved for places of worship, civic and governmental buildings, and residential projects that will provide a public space, such as a courtyard or plaza space.
  - b. A setback of up to 25 feet for uses in the district providing courtyard or plaza spaces in the setback area. Courtyard and plaza areas should meet definitions located in [7-2-5](#) of this chapter which describe form and purpose. The main facade of the building must face this setback area.
  - c. An adopted plan or other official document of the city recommends a greater setback.



d.

A greater setback is determined as part of a design review process or is the result of an addition (that is otherwise compliant with this article) to an existing building.

Side: None required, except that a 15-foot setback will be required when adjacent to residentially zoned property.

Rear: None required, except that a 15-foot setback will be required when adjacent to residentially zoned property.

(6)

*Impervious surface standards.* None.

(7)

*Height standards.* For the definition of height see building height in [section 7-2-5](#) of this chapter. The minimum height for new structures in the Central Business District will be two stories (a minimum of 24 feet). Maximum building height will be determined according to the context transition edge map, the height zone map, the height zone edge setback and shadow impacts described below and with maps following this section.

a.

The two-story requirement for new construction will mean that: (We introduced this to Asheville but you could just require a taller structure(say 25') if you do not want to have a two story minimum)

1.

A second floor is provided as a full occupiable floor and a mezzanine level will not be sufficient to meet this requirement; and

2.

Civic uses such as places of worship, arenas, auditoriums, and performance centers will not be required to meet the two-story requirement described in subsection 1. above. You may want to open the exception to light manufacturing and manufacturing facilities who may need taller single story building heights.

b.

c.

*Height zones:* Measurement of height: The second step in determining the height permitted for a structure is to review the building height zone map located at the end of this section.

(1)

The intermediate height zone is 145 feet and the tallest height zone is 265 feet.

(2)

Actual building heights may exceed this height by an additional overall amount of 50 feet to accommodate such uses as the final occupied floor, mechanical penthouses and roof cap features.

f.

One story additions to existing buildings are approved under the following circumstances:

1.

Additions are permitted when they are:

a.

1,000 square feet or less, or

b.

The addition does not expand the footprint of the existing building by more than 20 percent; and

c.

The addition is located no closer than five feet of the primary façade of an existing contributing structure in the Downtown National Register District, or is located at the rear of the existing building so there is no affect on the primary façade, or for non-contributing structures is placed to make the existing building either equal to or more compliant with setback requirements; and

d.

As measured from the primary street façade, the width of the addition shall not exceed 50 percent of the width of the existing building, and

e.

Other fenestration and design requirements if any, apply.

2.

One-story accessory structures, that are in support of a primary use on a site are allowed when:

a.

Placement of the accessory structure is behind or to the side of the primary building or in the case of outside dining spaces for restaurants, may be placed at the front of the lot to enhance activity at the sidewalk level, and

b.

Fenestration and design requirements if any, apply.

Other additions that fall outside of these provisions may be considered by the planning and zoning commission following the usual process for variances, which includes a recommendation from the downtown commission.

(8)

*Landscaping/buffering standards.* Landscaping and/or buffering shall be provided as required by [section 7-11-3](#) of this chapter. Consider street tree requirements and parking lot landscaping. Add a landscape buffer at the rear of sites when the project site abuts a residential district.

(9)

*Parking/loading standards.* If provided, loading facilities shall be placed along alleys or streets not identified on the Key Pedestrian Streets map (found at the end of this section) as a first choice but may be located there if no other alternative is available. No parking is allowed between the building and any abutting street.

Parking garages placed on Main Street shall provide a full habitable story and use along the street-side facade(s) with a minimum depth of 20 feet or shall comply with the design and operation standards for openings and design organization requirements for new construction.

(10)

*Sidewalk standards.* Sidewalks shall be provided as required by and pursuant to the requirements for sidewalks as set forth in [section 7-11-8](#) of this chapter. In general, sidewalks shall be a minimum of ten feet wide or the city engineer may approve an alternative width based on context of street and block. Narrower sidewalks may be approved in cases where there is insufficient space for a larger sidewalk.

(11)

*Access standards.* Vehicular entries shall be a maximum of 24 feet in width. In addition driveway curb cuts are limited to a single standard driveway per 200 feet along a block face per development. Automobile access and services from a rear alley is encouraged. The city engineer shall make the final determination regarding access standards for situations where strict compliance is difficult while assuring the goals for a strong pedestrian environment in the CBD are met.

(12)

*Recreational/open space standards.* None.

(13)

*Design and operational standards.*

a.

The following requirements apply to all buildings in the CBD:

*Street wall and step-back requirements:* In order to enhance the traditional scale of downtown and ensure adequate air and light at the sidewalk level and neighboring properties, a visual demarcation will be established across the facade of the building at a height that is defined as the street wall. Corresponding to this elevation on the facade a step-back across the front or side(s) will be provided and in limited circumstances described below, other alternatives may apply to ensure variety in new construction.

(3.)

*Design organization:* Buildings shall demonstrate a building design organization on each facade such as but not limited to a base-middle-cap organization, vertical articulation or other organizing principle.

*Building caps:* Downtown Asheville has a wealth of buildings with distinctive caps that use special forms and materials. The unique diversity of building caps has become a defining feature of the downtown skyline. In order to frame views and provide attractive landmarks that enhance the skyline

of the downtown area, building caps are required. See the design guidelines regarding building caps for recommendations in addition to the following requirements:

- a. Provide a cap to enhance a base-middle-cap oriented design; or
- b. Provide a cornice or other decorative band for flat roofs to serve as a cap.

(4.)

*Pedestrian entrances:* All buildings shall have their primary pedestrian entrance on a frontage line. If the site is located on a key pedestrian street then the primary pedestrian entrance shall be located along that street. See the Asheville Downtown Design Guidelines for additional recommendations.

(5.)

*Windows, doors and other openings.* Building fenestration is required because it enhances the character of downtown Asheville by providing features of visual interest at the sidewalk for the benefit of pedestrians, by defining the scale of buildings between the ground floor and upper floors and by improving the skyline vista of Asheville. The following requirements apply:

- a. For buildings along streets designated as key pedestrian streets (see map at the end of this section), at least 70 percent of the street-level facade is composed of windows, doors and other openings.
- b. For buildings along streets that are not designated as key pedestrian streets, at least 50 percent of the street-level facade is composed of windows, doors and other openings.
- c. Residential buildings shall provide at least 30 percent (40 percent for live/work units) windows, doors or other openings along the street-level facade unless located along a key pedestrian street where it will be required to meet the 70 percent standard noted above.
- d. All buildings are required to provide a minimum of 20 percent of the upper story areas as windows, doors or other openings with each face calculated independently. This requirement applies to exposed building sides unless otherwise restricted by the NC State Building Code.
- e. At street-level, areas of opaque wall may extend no more than 20 feet horizontally before beginning a window, door or other opening.
- f. Glass may be tinted but shall not be reflective.
- g. When the facade of a building follows the natural grade of a sloping site, windows and other openings which may start out at pedestrian-level quickly go overhead and no longer relate to the sidewalk; in these situations where the surface level of the floor reaches six feet or more above the sidewalk, that floor will be deemed to no longer be at the pedestrian level. Requirements for windows, doors or other openings will be reassessed for the remaining ground level facade length.

## Johnson, Larry

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**From:** Benjie Thomas <bthomas@west-consultants.com>  
**Sent:** Thursday, March 19, 2015 9:01 AM  
**To:** Johnson, Larry  
**Subject:** Subdivision Ordinance

Larry,

You also asked me to look at the Town's land development ordinances to suggest any sections that might need updating. I think in general everything looks good.

One minor item: the DWQ is now called the Division of Water Resources (still part of DENR). The actual Rule is: 15A NCAC 02B .0243 CATAWBA RIVER BASIN: PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS

### **9-2052.03 Lake Frontage Lots.**

Lake frontage lots shall have a minimum width of one hundred (100) feet at the front building line. All other lots within four hundred and sixty feet (460) of the official pond level of the lakes within Burke County shall have a minimum width of one hundred (100) feet at the front building line. Lots shall also adhere to the Catawba River Buffer Rules issued by the North Carolina Division of Water Quality.

Also, this section needs a few corrections:

### **9-2052.11 Storm Water Drainage.**

(1) The subdivision must meet the latest adopted requirements specified by the state sediment and erosion control program, Town of Valdese watershed protection ordinance, Phase II Stormwater Ordinance, national flood insurance program, and US Army Corps of Engineers regulations (Section 404 of the Clean Water Act), and any other jurisdictional requirements under local, State, and Federal rules or laws. Terms used in this section are as defined in the **North Carolina Erosion and Sediment Control Planning and Design Manual.**

The Zoning Ordinance needs to reference the new Phase II Stormwater Ordinance

Benjamin (Benjie) B. Thomas, PE

## **West Consultants, PLLC**

405 S. Sterling Street

Morganton, NC 28655

828-433-5661 x 308

**ARTICLE I  
PLANNED UNIT DEVELOPMENTS**

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

Intent: The purpose of the planned unit development – residential is to encourage the development of living environments, which meet the needs of the people who live in them by providing certain development privileges in exchange for preplanning and design considerations. The planned unit development – residential provides flexibility in using new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design, which promotes the conservation of open space and ensures substantial compliance with the intent of the Town of Valdese Zoning Ordinance. Furthermore, it is the purpose of this Section to:

- (a) Encourage development that enhances the quality of life while protecting the health, safety and general welfare of residents;
- (b) Encourage variety in housing opportunities;
- (c) Encourage the development of a viable economic base;
- (d) Encourage the development of land uses that will complement existing adjacent land uses;
- (e) Provide guidelines for development of planned unit developments.

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

**9-3111.1 Permitted Uses and Requirements**

- (a) Planned Unit Developments may be approved for any residential use or combination of uses except the combination of residential and industrial.
- (b) General Requirements:
  - (1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the application for a planned unit development.



- (2) A residential planned unit development shall be located on a site containing at least two (2) contiguous acres.
- (3) If land or structures within a proposed PUD-R are to be sold to more than one person, firm, corporation or other entity, then the proposed PUD-R shall be subject to the Town of Valdese Subdivision Ordinance. Deviations from said standards may be approved provided they are stated as part of the PUD-R Application Requirements.
- (4) A minimum of 10 percent of the land area for the PUD-R shall be common open/recreational space. This area shall be identified as open/recreation space on the submitted plans, which shall be recorded in the Office of the Register of Deeds. In residential mixed use PUD-R's, required open space may not be part of any proposed platted single-family residential lots.
- (5) All new planned unit developments shall provide adequate pedestrian facilities that are consistent with the general theme of the development. Pedestrian facilities can include (but are not limited to) foot trails, bike paths, greenways, and sidewalks and may have both pervious and impervious surfaces. If sidewalks are used, they shall meet or exceed ADA standards and shall be constructed of concrete. Sidewalks, trails and paths shall connect wherever possible to maximize the network of pedestrian facilities.
- (6) The design and layout of a PUD-R shall take into account the relationship of the site of the surrounding areas. Additionally, the perimeter of the PUD-R shall be so designed as to minimize any negative impact on adjacent properties.
- (7) Development of a PUD-R may be phased, in which case all the property anticipated for the PUD-R development shall be submitted as part of the PUD-R development plan showing a conceptual depiction of the eventual development and approximate phase lines shown. During the phased development of a PUD-R, proportional overall common open space required shall be incorporated into each phase and be dedicated and installed or improved by the end of the construction of each proposed phase.
- (8) Following review of the proposed PUD-R, the Planning Board shall recommend approval or denial of the application and accompanying PUD-R plans. Planning Board may recommend to Town Council conditional approval with such conditions as are necessary to ensure conformity to all applicable requirements. If conditions are placed on the approval of the PUD-R, a revised plan including the required changes must be submitted to the Valdese Town Council.
- (9) In order for an application for a PUD-R to be approved, the Town Council must find that the proposed development will be compatible with comprehensive land use, and

neighborhood development plans, and will not place an excessive traffic load on local streets. In addition, Town Council must find that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.

(10) Site development within the PUD-R shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Town Council. Modification of the development plan may be made by the Town Council subsequent to its initial approval upon application by the owner of the property.

(11) Following approval by the Town Council of a PUD-R Conditional Use Permit, the property for which approval was granted shall be labeled “PUD-R” on the official zoning map.

(12) Lot Design and Requirements: Clustering of structures on smaller lots is encouraged. Lots in a PUD-R may be smaller than established in the Zoning Ordinance provided that the overall average lot size and density of the entire PUD-R meets Zoning requirements and the proposed lot sizes are shown in the PUD-R application. The following are the minimum building setbacks:

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

(c) Application requirements: An application for a conditional use permit to allow a PUD-R shall be accompanied by schematic plans showing the information listed below. In addition, the Town Council may require additional information necessary to ensure compliance with the provisions of this ordinance.

(1) Proposed location of buildings and their general exterior dimensions of all non-single family structures;

(2) Proposed use of all the land within the area requested for a PUD-R, in addition to

the zoning designation and land use of adjacent properties;

- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings for all non-single family structures;
- (7) Schedule of number and size of dwelling units within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project;
- (9) Statement of Intent, including plans for selling or renting the property;
- (10) Provision to assure maintenance of all common areas and open space;  
Example: Property owners' association, private conservancy, etc;
- (11) Location of all common yards, open space and recreational areas;
- (12) Street lighting, if any;
- (13) Signage plan, if it will vary from base zoning ordinance (Section 9-3097);
- (14) The location and size of all non-residential structures;
- (15) If approved, prior to construction the following items must be submitted to Planning Staff:
  - (a) Professionally prepared plans of each phase with the items listed below as a minimum must be submitted and approved by the Planning Board:
    - (1) Existing site topographical conditions, showing contours at five (5) foot intervals, if reasonably available, and location of significant geographical features, including watercourses;
    - (2) The location of drainage facilities/basins and other similar features;
    - (3) A boundary survey;
    - (4) Construction specifications for streets and pedestrian ways including typical roadway sections showing locations of all

utilities. These specifications must be sealed by a professional engineer licensed in the State of North Carolina;

- (5) Sealed engineering plans for water, sewer, storm drainage and erosion/sedimentation;
- (6) Preliminary subdivision plat if the property is to be subdivided;
- (7) General concept landscape plans for open space, common areas, streets, pedestrian ways and recreational facilities;
- (8) Location, arrangement and number of parking facilities and loading areas;
- (9) Architectural concept plans of typical structures.

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

### **9-3112 Planned Unit Development – Business (PUD-B)**

Intent: The purpose of the planned unit development – business is to encourage the development of environments, which meet the needs of the people who live or work in them by providing certain development privileges in exchange for preplanning and design considerations. The planned unit development – business provides flexibility in using new development concepts and in introducing variety into neighborhoods by encouraging mixed uses, variable lot size, and environmentally sensitive design which promotes the conservation of open space. The Town Council may approve this form of development in the districts that allow it as a conditional use, provided that the conditions specified in this article are met.

#### **9-3112.1 Permitted Uses and Requirements**

- (a) Uses permitted within the PUD-B:
  - (1) Uses permitted within the zoning district for which the project site is located.
- (b) Permitted building and lot types:
  - (2) Building and lot types permitted within the zoning district for which the project site is located.
- (c) Permitted accessory structures and uses:

- (1) Accessory structures and uses permitted within the zoning district for which the project site is located.
- (d) General Requirements:
- (1) At the time of application for a planned unit development, all land, structures and other real property shall be in single or joint ownership of whatever form, or the petitioner shall have the right to acquire ownership under a valid option, and this information shall be included in the submission of an application for a planned unit development.
  - (2) The development shall be in full compliance with all density and lot coverage limitations and requirements of the zoning district in which the development is to be located.
  - (3) All new planned unit developments shall provide concrete sidewalks along both sides of all existing and proposed public streets within the PUD-B. Sidewalks shall only be required on the internal side of existing streets that are on the perimeter of the PUD-B. Sidewalks shall be a minimum of 5 feet wide and four inches thick. Sidewalks will not be required along alleys. All pedestrian segments shall meet or exceed ADA standards and shall be constructed of concrete.
  - (4) The Town Council may require buffering around the proposed PUD-B.
  - (5) In approving an application for a PUD-B, the Town Council shall find that the proposed development will be compatible with comprehensive, land use, and neighborhood development plans, will not place an excessive traffic load on local streets, that the site can be developed according to a site plan that will be compatible with existing neighborhood development, and that the site can be provided with adequate utility services.
  - (6) Site development within the PUD-B shall conform to the schematic plan and associated requirements of the conditional use permit approved by the Town Council. Modification of the development plan may be made by the Town Council subsequent to their initial approval upon application by the owner of the property.
  - (7) Following approval by the Town Council of a PUD-B conditional use permit, the property for which approval was granted shall be labeled "PUD-B" on the official zoning map.
- (e) Application requirements: An application for a conditional use permit to allow a PUD-B shall be accompanied by schematic plans showing the information listed below. In

addition, the Town Council may require additional information necessary to ensure compliance with the provisions of this ordinance.

- (1) Proposed location of buildings and their general exterior dimensions;
- (2) Proposed use of all the land within the area requested for a PUD-B;
- (3) Dimensions between all buildings and from buildings to property lines;
- (4) Traffic, parking and circulation plan, showing proposed locations and arrangement of parking spaces and ingress and egress to and from adjacent streets;
- (5) Proposed location and material of any screening walls, fences, or plantings;
- (6) Proposed exterior design of buildings;
- (7) Schedule of number and size of dwelling units/buildings within the project;
- (8) Proposed time schedule and staging, if any, for construction of the project.

<b>Sections 9-3113 through 9-3115 reserved</b>
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**ARTICLE J  
ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**9-3116 Zoning Enforcement Officer**

- (a) This Ordinance shall be administrated and enforced by the Zoning Enforcement Officer who shall be appointed by the Town Manager, and is hereby empowered:
- (1) To issue a zoning permit when these regulations have been followed or, to refuse to issue the same in the event of noncompliance. Written notice of such refusal and reason therefore shall be given to the applicant.
  - (2) To collect the fees set forth herein for a zoning permit, variances, appeals, rezoning, conditional use permits and subdivisions.
  - (3) To make and keep all records necessary and appropriate to the office, including record of the issuance and denial of all zoning permits and of receipt of complaints of violation of this Ordinance and action taken to the same.
  - (4) To inspect any building and/or land to determine whether any violations of this Ordinance have been committed or exist.
  - (5) To enforce this Ordinance and take all necessary steps to remedy any condition found in violation by ordering in writing the discontinuance of illegal uses or illegal work in progress and may institute injunction, mandamus, or other necessary action.
  - (6) To keep the Board of Adjustment advised of all matters other than routine duties pertaining to the enforcement of this Ordinance and to transmit all applications and records pertaining to appeals, variances, or requests for conditional use approval.

**9-3117 Zoning Permit Required**

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

**9-3118 Application for a Zoning Permit**

- (a) Each application for a zoning permit to the Zoning Enforcement Officer of the Town of Valdese shall be accompanied by a fee, set by the Town Council, and a plan in duplicate, drawn to scale, one (1) copy of which shall be returned to the owner upon approval. The plan shall show the following:

## TOWN DEVELOPMENT ACTION PLAN

**Responsibility Codes:** Administration = AD, Public Works = PW, Planning and Zoning = PZ, Parks and Recreation = PR, Water and Wastewater = WW, Public Safety = PS, Planning Board = PB, Town Council = TC

**Priority Codes:** High= immediate implementation and resource allocation; Medium = actively pursue resources and swift implementation; Desirable = implement as resources and opportunities become available

**Timeframe:** Immediate (0-2 years); Medium (2-5 years); Long term (more than 5 years); Ongoing (continuous process)

**Type of Actions:** Policy; Regulation; Plan; Resolution; Capital Improvement

Priority #	Topic Area and Action Item	Priority	Timeframe	Type of Action	Responsibility	Funding Required
<b>1 -- Downtown/Commercial Development (CD)</b>						
CD. 1.1	Compile an inventory of the historically significant properties in the central business district.	Medium	Immediate	Plan	PZ	YES
CD. 1.2	Ensure that the scale and design of commercial development is consistent with the unique small town character of Valdese, especially in the Central Business District.	Desirable	Ongoing	Policy; Regulation	PZ	
CD. 1.3	Ensure that new commercial development is designed with pedestrian oriented features and sidewalks that provide linkages to residential neighborhoods wherever practical.	Desirable	Ongoing	Policy; Regulation	PZ	
CD. 1.4	Consider rezoning land surrounding I-40 exits to encourage commercial development where practical.	Medium	Medium	Regulation	PB/TC	YES
CD. 1.5	Establish voluntary design guidelines for all commercial, multi-family, and institutional uses.	Medium	Immediate	Plan	PB/PZ	YES
CD. 1.6	Establish and promote a major regional commercial/retail hub utilizing exposure to I-40.	Desirable	Long	Policy; Capital Improvement	AD	YES
CD. 1.7	Enhance Downtown Valdese Merchant's Association and assist with project such as marketing, retail gap analysis and ZIP code surveys.	High	Immediate	Plan	AD	YES
CD. 1.8	Pursue involvement with the N.C. Small Town Main Street program and guidance on the National Trust's approach to: Organization, Economic Restructuring, Design and Promotions.	High	Immediate	Plan	AD	YES
CD. 1.9	Recruit and help establish more "basic services" businesses to attract more town residents downtown.	High	Immediate/ Ongoing	Policy	AD	
CD. 1.10	Recruit and help establish more establishments that that are family oriented to help attract more shoppers downtown.	High	Immediate/ Ongoing	Policy	AD	
CD. 1.11	Create an inventory of downtown parking opportunities and utilize best practices to ensure adequate public parking.	Medium	Immediate	Plan	PZ/PW/PS	
CD. 1.12	Broaden the scope of the Town's façade improvement program.	High	Immediate	Policy; Capital Improvement	AD	YES
CD. 1.13	Rezone properties in the downtown area to promote the expansion of the Central Business District into several additional blocks and create a new Zoning District.	High	Immediate	Regulation	PB/PZ/TC	



Priority #	Topic Area and Action Item	Priority	Timeframe	Type of Action	Responsibility	Funding Required
<b>2 -- Industrial Development (ID)</b>						
ID.2.1	Continue to provide developers with incentives for the adaptive reuse of vacant industrial sites.	Desirable	Ongoing	Policy	AD	YES
ID.2.2	Collaborate on a continuing basis with officials from WPCOG, Burke County, and other municipalities to remain informed and have input on developments that will affect Valdese.	High	Ongoing	Policy	AD/PZ/TC	
ID.2.3	Keep an up to date inventory of industrial sites in and around Valdese that are available for development or redevelopment.	High	Immediate	Plan	AD	
ID.2.4	Determine whether adequate efforts and resources are being dedicated to industrial recruitment to the Town of Valdese, and where shortcomings are found, identify additional measures to improve recruitment efforts.	High	Immediate	Policy	AD	YES
ID.2.5	Work with the local school systems, community college, and workforce development agencies to ensure Valdese will provide new and existing industries with a skilled workforce.	High	Immediate	Policy	AD	
<b>3 – Local Economic Development (ED)</b>						
ED.3.1	Continue to utilize the Tourism Development Authority proceeds to help promote travel and tourism in the Town.	High	Ongoing	Policy	AD	
ED.3.2	Inventory all vacant properties and buildings throughout town and identify potential uses that would be viable in those locations.	High	Medium	Plan	PB/PZ/AD	
ED.3.3	Evaluate the Town’s existing zoning ordinance to determine where amendments are necessary to encourage and enable more compact, mixed-use developments.	Medium	Medium	Regulation	PB/PZ/TC	
ED.3.4	Continue to actively initiate and widen the reach of VEDIC.	High	Ongoing	Policy	AD	
ED.3.5	Market Valdese as a tourist “destination” for shopping, cultural, and outdoor recreation excursions.	High	Immediate	Policy	AD	YES
ED.3.6	Evaluate the Town’s land use regulations to assure the review and approval process is carried out in an efficient and effective manner.	Medium	Medium	Regulation	PZ	
<b>4--Residential Development (RD)</b>						
RD.4.1	Evaluate the Town’s development ordinances for areas that will help promote a diversity of housing choices.	Medium	Medium	Regulation	PZ	
RD.4.2	Require site design standards for land uses adjacent to residential zoning districts that protect the overall character and general welfare of existing neighborhoods.	Medium	Medium	Regulation	PZ	
RD.4.3	Encourage the preservation of older homes in the community to help strengthen a sense of place and historical context.	Medium	Medium	Policy	AD/PZ	
RD.4.4	Amend Subdivision Regulations to require that all new roads be designed and constructed to meet NCDOT standards and be dedicated to the public upon completion.	High	Immediate	Regulation	PB/PZ/TC	

Priority #	Topic Area and Action Item	Priority	Timeframe	Type of Action	Responsibility	Funding Required
RD.4.5	Encourage residential subdivisions that incorporate conservation subdivision design.	Medium	Medium	Regulation/Policy	PB/PZ/TC	
RD.4.6	Work with community development and affordable housing agencies to identify the best ways to provide and maintain sufficient housing options throughout town.	Medium	Ongoing	Policy	PZ/AD	
RD.4.7	Encourage the development of mixed-use and multi-family housing in appropriate zoning districts.	Medium	Ongoing	Policy	PZ	
<b>5--Community Appearance (CA)</b>						
CA.5.1	Adopt appropriate appearance and design standards for all new commercial, multi-family, and institutional developments and redevelopments.	Desirable	Medium	Regulation	PB/PZ/TC	YES
CA.5.2	Establish a Community Appearance Commission in accordance and as allowed by N.C.G.S. 160A-452.	Medium	Long	Resolution/Plan	PB/PZ/TC	
CA.5.3	Establish a Historic Preservation Commission in accordance with N.C.G.S. 160A-440.7 and to identify all historic structures and landmarks in Town and designate a Historic District in accordance with N.C.G.S. 160A-400.4	Medium	Medium	Resolution/Plan	PB/PZ/TC	YES
CA.5.4	Create a revolving loan initiative that is funded publicly, privately, or through these partnerships, to purchase, rehabilitate, and/or resell historic properties whose owners are unable, or unwilling, to maintain their property.	Desirable	Ongoing	Policy/Capital Improvement	PZ/TC	YES
CA.5.5	Give highest priority for beautification efforts to major thoroughfares and entryways.	High	Immediate	Policy/Plan	AD	
CA.5.6	Implement a comprehensive signage and wayfinding program throughout Town.	Desirable	Medium	Plan/Capital Improvement	PZ	YES
CA.5.7	Establish an entryway and commercial corridor overlay zone that includes more stringent appearance and site design standards.	Medium	Medium	Regulation	PB/PZ/TC	
CA.5.8	Seek ways to address the issue of absentee landowners and determine best practices for maintaining and upgrading deteriorating properties.	Desirable	Ongoing	Policy	PZ	
<b>6 -- General Services (GS)</b>						
GS.6.1	The Town's website should be a major resource for residents and visitors to the area. Considering this, the website should be continually updated with timely and relevant information.	Immediate	Ongoing	Policy/Capital Improvement	AD	YES
GS.6.2	Conduct an annual review of the Town Development Plan to monitor the Town's progress in achieving its goals.	Medium	Ongoing/Long	Policy	PB/PZ	
GS.6.3	Maintain an updated street inventory that reflects the condition and maintenance needs of all Town streets.	Desirable	Ongoing	Plan	PW	



Priority #	Topic Area and Action Item	Priority	Timeframe	Type of Action	Responsibility	Funding Required
GS.6.4	Continually evaluate the staffing, training, and equipment needs for all public safety departments.	High	Immediate/Ongoing	Policy/Capital Improvement	PS	
GS.6.5	Limit the number of street curb cuts in new commercial development to avoid traffic congestion and help improve safety.	Desirable	Ongoing	Policy	PZ	
GS.6.6	Participate in the Unifour RPO to ensure a coordinated and regional approach to transportation planning and to identify funding for future transportation needs.	High	Ongoing	Policy	AD/PZ	
GS.6.7	Pursue NCDOT funding to develop a comprehensive Bicycle and Pedestrian Plan.	High	Immediate	Plan	PZ	
GS.6.8	Prepare and adopt a Water and Sewer Facilities Capital Management Plan	Medium	Medium	Capital Improvement	WW/TC	YES
GS.6.9	Require that water, wastewater, and stormwater drainage system improvements be constructed concurrently with new development and to provide adequate capacity to meet future demands.	High	Immediate/Ongoing	Policy/Regulation	WW/PZ/TC	
GS.6.10	Discourage the extension of water and sewer lines into environmentally sensitive areas.	High	Ongoing	Policy/Regulation	PW/PZ/TC	
GS.6.11	Provide incentives for infill development where infrastructure already exists.	Desirable	Ongoing	Policy	TC	YES
<b>7 -- Natural Resources (NR)</b>						
NR.7.1	Revise standards for landscaping and tree planting in surface parking lots in all zoning districts.	Desirable	Medium	Regulation	PB/PZ/TC	
NR.7.2	Preserve open space, forest land and other natural areas through appropriate subdivision and zoning regulations, including conservation subdivision design.	Desirable	Medium	Regulation	PB/PZ/TC	
NR.7.3	Allow development only in areas of Town that have suitable soil and topographic characteristics.	Desirable	Medium	Regulation	PB/PZ/TC	
NR.7.4	Limit development in designated floodplains, wetlands, and waterways.	High	Ongoing	Regulation	PB/PZ/TC	
NR.7.5	Support the development of regional conservation plans.	Medium	Ongoing	Policy/Plan	PZ/TC	
<b>8 -- Recreation and Cultural Resources (RC)</b>						
RC.8.1	Prepare and adopt a recreation master plan for parks, trails, and greenways.	High	Immediate	Plan	PR/TC	YES
RC.8.2	Require new development and redevelopment projects to incorporate public spaces and encourage appropriate treatment of the public realm for sidewalks, etc.	Desirable	Ongoing	Regulation	PB/PZ/TC	
RC.8.3	Provide opportunities and accommodate regional sporting events and tournaments.	Desirable	Ongoing	Policy/Capital Improvement	AD/TC	YES
RC.8.4	Renovate "From this Day Forward" outdoor drama	Desirable	Long	Capital Improvement	AD	YES