

SUBDIVISION REGULATIONS

TOWN OF VALDESE

NORTH CAROLINA

Adopted 1984

TOWN OF VALDESE PLANNING DEPARTMENT

Amended 1999

Amended 2001

Amended 2008

Amended 2017

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**SUBDIVISION ORDINANCE**  
**VALDESE, NORTH CAROLINA**

**ARTICLE A**  
**INTRODUCTORY AND LEGAL PROVISIONS**

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

**9-2001 Title**

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

**9-2002 Authority and enactment clause**

The Town Council of the Town of Valdese, under the authority conferred by Chapter 160D of the General Statutes of the State of North Carolina, does hereby ordain and enact into law these Articles and Sections.

**9-2003 Jurisdiction**

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

## **9-2004 Purpose**

The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the Town of Valdese. It is further designed to provide for the orderly growth and development of the Town; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of right-of-way or easements for streets and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This chapter is designed to further facilitate adequate water, sewerage, parks, schools, and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller tracts of land.

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

No street shall be accepted and maintained by the Town nor shall any street lighting, water, or sewer be extended to nor connect with any subdivision of land not shall any permit be issued by an administrative agent or department of the Town for the construction of any building or other improvement requiring a permit upon any land concerning which a plat is required to be approved, unless and until the requirements outlined in this chapter have been complied with.

### **9-2005.1 Prerequisite to Plat Recordation**

After the effective date of this chapter, each major subdivision plat of land within the Town's jurisdiction shall be approved by the Town Council following a recommendation from the Planning Board before plat recordation. Minor subdivisions, as defined in the



chapter, shall be approved by the Subdivision Administrator before plat recordation. Nothing herein compels the approval of any proposed subdivision by the Town Council or the Subdivision Administrator except under the provisions of this chapter.

<b>9-2006. Penalties for Violation</b>
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After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the jurisdiction of this chapter, thereafter subdivides such land in violation of the chapter or transfers or sells land by reference to, the exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such chapter and recorded in the office of the Burke County Register of Deeds, shall be subject to the penalties listed below. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town, through its attorney or other official designated by the Council, may enjoin illegal subdivision, transfer, or sale of land by injunction.

- (a) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding two hundred dollars (\$200) or by imprisonment not to exceed thirty (30) days.
  
- (b) A violation of this chapter shall be a civil offense and shall subject the offender to a civil penalty in the amount of fifty dollars (\$50) per day that the violation continues. Any person violating this chapter shall be issued a written citation. The penalty shall be paid to the tax collector at the Valdese Town Hall within seventy-two (72) hours from the time of issuance of the written citation.
  
- (c) Each day's continuing violation shall be a separate and distinct offense.

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

(e) This chapter may be enforced by anyone, all, or a combination of the remedies authorized herein.

#### **9-2007. Severability**

Should any section or provision of this chapter be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

#### **9-2008 Variances**

The Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship is likely to result from strict compliance. In granting any variance, the Board shall make the findings required below, considering the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board finds all the following:

(a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and

(b)The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; and

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship; and

(d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

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

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

<b>9-2009 Registration of Plats</b>
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Registration of all plats shall be by North Carolina General Statute 47-30.

## **9-2010 Amendments**

- .1 The Town Council may from time to time amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have thirty (30) days from the submittal date of the proposed amendment within which to submit its report. If the Board fails to submit a report within the specific time, it shall be deemed to have recommended approval of the amendment.
  
- .2 No amendment shall be adopted by the Town Council until it has held a public hearing on the amendment. Notice of the public hearing shall be published in a newspaper of general circulation in the Town area at least once a week for two consecutive calendar weeks prior to the hearing. The initial notice shall appear not more than 25 or less than 10 days before the hearing date. In computing the 10 to 25 day period, the date of the first publication shall be counted, but the date of the hearing shall not be counted.

## **9-2011 Abrogation**

It is not intended that this chapter repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued under the law.

## **9-2012 Thoroughfare Plans**

Where a proposed subdivision includes any part of a thoroughfare which has been designated as such upon an officially adopted thoroughfare plan of the Town, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.

### **9-2013 School Sites on Land Use Plan**

North Carolina General Statute Chapter 160D-804 provides for the reservation of school sites under a comprehensive land-use plan approved by the Town Council. For this authorization to become effective, before approving such plans, the Town Council and the Burke County Board of Education shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land-use plan. Whenever a subdivision is submitted for approval which includes part or all of a school site to be reserved under the plan, the Town shall immediately notify the Board of Education and the Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does not wish to reserve the site, it shall so notify the Town of Valdese and no site shall be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as free of the reservation.

### **9-2014 Zoning and other Plans**

Proposed subdivisions must comply in all respects with the requirements of the zoning chapter in effect in the area to be subdivided and with the requirements of any other adopted plans.

### **9-2015 Reserved.**

**ARTICLE B**  
**DEFINITIONS**

**9-2020. Definitions**

For this Chapter, certain words or terms used herein shall be defined as follows:

- (a) **ACCESS CORRIDORS.** A strip of land lying between the side lot boundary lines of a lake or riverfront lots offering access to lots at least one lot depth away from the water's edge.
  
- (b) **BUFFER.** A buffer as required by certain sections of these regulations shall be one of, or equal to one of the following:
  - (1) A six-foot-high wood basket-weave type fence.
  
  - (2) A six-foot-high solid picket type fence with the pickets being placed facing the adjoining property.
  
  - (3) A six-foot-high chain-link type fence with panel inserts.
  
  - (4) A six-foot-high open type fence with evergreen vegetation planted facing the adjoining property and completely blocking the view from one area to another.
  
  - (5) A six-foot-high solid masonry wall.
  
  - (6) Other and/or additional screening as required by the Zoning Enforcement Officer.

- (c) **BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.
- (d) **BUILDING SETBACK LINE.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost five feet (5') of any uncovered porches, steps, gutters, and similar fixtures, and related front, rear, or side property, or a right-of-way line if the right-of-way is closer to the building.
- (e) **CLERK OF SUPERIOR COURT.** Clerk of Superior Court of Burke County, North Carolina.
- (f) **TOWN COUNCIL.** The words Town Council shall mean the Town Council of Valdese, North Carolina.
- (g) **DEDICATION.** A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by a written instrument and is completed with an acceptance.
- (h) **DOUBLE FRONTAGE LOT.** A continuous (through) lot that is accessible from both streets upon which it fronts.
- (i) **EASEMENT.** A right to use the land of another for a special purpose such as a right of ingress and egress, or a right to maintain a utility line across the land of another.

- (j) Expedited Review. Review process whereby the Town of Valdese may require only a final plat for the recordation for a division of a tract or parcel of land in single ownership if all of the following criteria are met:
1. The tract or parcel of land to be divided is not exempted as a Ten-Acre Exemption.
  2. No part of the tract or parcel to be divided has been divided in ten years before the division.
  3. The entire tract or parcel of land must be greater than five acres.
  4. The division of the tract or parcel of land must not result in more than three lots.
  5. The resulting lots must meet lot dimension requirements of any applicable land use if any.
  6. The use of any lot shall conform to applicable zoning requirements if any.
  7. The resulting lots must have a permanent means of ingress and egress designated on a recorded plat. The subdivision must ensure access to the newly created lots.
  8. The final plat shall be prepared following Section 9-2035 (The Final Plat) of the Town of Valdese Subdivision Regulations and must be approved by *the* Town of Valdese's review officer.
- (k) FLAG LOT. A lot so shaped and designed that the main building site area is set back from the street on which it fronts and has an access strip connecting the main building site with frontage street.



- (l) HILLSIDE SUBDIVISION. Land proposed to be subdivided which has a slope of sixteen percent (16%) or greater. That is an average difference in elevation of at least sixteen (16) feet in a horizontal distance of one hundred (100) feet. The average shall be obtained from at least fifteen (15) measurements, each twenty (20) feet from the next.
  
- (m) LOT. A parcel of land occupied or capable of being occupied by a main building or group of buildings and accessory buildings, together with such yards, open spaces, and lot areas as are required by the zoning ordinance, and having not less than the minimum required frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.
  
- (n) LOT FRONT. A portion of the lot that is adjacent to the street. In the case of lots which adjoin a stream, lake, or pond, the lot front is considered to be the part of the lot which adjoins the water.
  
- (o) MINOR SUBDIVISION. A subdivision of land that meets the following criteria:
  - a. Involving not more than five (5) lots fronting on an existing approved street;  
and
  
  - b. Not involving any new street or prospectively requiring any new street for access to the interior property; and
  
  - c. Not requiring an extension of public sewage or water lines or creation of new drainage easements through lots to serve property at the rear; and

- d. Not adversely affecting the development of the remainder of the parcel or adjoining property; and
  - e. Creating no new or residual parcels not conforming to the requirements of these regulations.
  - f. All included land must be under the ownership of one sponsor.
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- (p) OFFICIAL MAPS OR PLANS. Any maps or plans endorsed by the Town Council as a guide to the development of Town of Valdese.
  - (q) ORDINANCE. The word Ordinance or Regulation shall mean the Subdivision Ordinance for Town of Valdese, North Carolina.
  - (r) PEDESTRIAN WALKWAYS. Any paved or unpaved public or private route intended for pedestrian use, including a pedestrian path or esplanade, regardless of use by other transportation modes.
  - (s) PLANNED UNIT DEVELOPMENT. The planned unit development is a permitted use designed to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. Such development may consist of individual lots or common building sites. Common land must be an element of the plan related to affecting the long-term value of the entire development.
  - (t) PLANNING BOARD. The Planning Board of the Town of Valdese, North Carolina.

- (u) PLAT. A map or plan of a parcel of land, which is to be or has been subdivided.
  
- (v) PLAT, FINAL. A map of certain described land prepared by this chapter as an instrument for recording with the Burke County Register of Deeds.
  
- (w) PRIVATE STREETS. Any right-of-way or area set aside to provide vehicular access which has not been accepted for maintenance or intended to be accepted for maintenance by the Town of Valdese or the State of North Carolina, and which is not maintained by the Town of Valdese or the State of North Carolina. An entity other than the Town of Valdese, such as property owners, homeowner's association, community group, property management company, or similar type of organizations, shall be responsible for upkeep and maintenance.
  
- (x) RECREATION AREA OR PARK. An area of land or combination of land and water resources that are developed for active and/or passive recreation that may include manmade features that accommodate such activities.
  
- (y) RESERVATION. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep the property free from development for a stated period.
  
- (z) SINGLE-TIER LOT. A lot that backs upon a limited access highway, a railroad, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.
  
- (aa) STREETS. A dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply:

- (1) Access Street. A platted street designed to giving access to adjacent property owners.
- (2) Alley. A minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.
- (3) Arterials. This thoroughfare category includes those streets and highways that carry large volumes of traffic at moderate speeds through and within Town of Valdese. These thoroughfares provide access to major commercial, industrial, and public traffic generators.
- (4) Major Collector Streets. As the name indicates, traffic from local streets are collected by these thoroughfares and carried to arterial streets. While also serving as connectors between arterials, these streets perform an additional function of providing access to adjoining properties. Smaller volumes of traffic are carried on these streets and speeds are lower.
- (5) Local or Minor Streets. The local street system comprises all facilities, not in one of the higher systems. It serves primarily to provide direct access to adjoining land and access to the higher-order system.
- (6) Cul-de-sac. A short local street having but one end open to traffic and the other end is permanently terminated and a vehicular turn around provided.

- (bb) SUBDIVIDER. Any person, firm, organization, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- (cc) SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations established herein, with zoning exception, building code and fire code regulations:

Exemptions:

- a. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations;
- b. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;
- c. The public acquisition by purchase of strips of land for the widening or opening of streets;
- d. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town, as shown in this chapter.
- e. The division of a tract into parcels following the terms of a probated will or by intestate succession under Chapter 29 of the General Statutes.

(dd) SUBDIVISION ADMINISTRATOR. The Planning Director for the Town of Valdese, North Carolina, or his designated agent.

(ee) TOWN COUNCIL. The Town Council of the Town of Valdese.

<b>9-2023. WORD INTERPRETATION</b>
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For the purpose of this chapter, certain words shall be interpreted as follows:

(a) The word “**may**” is permissive.

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

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

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

**ARTICLE C**  
**PROCEDURE FOR REVIEW AND**  
**APPROVAL OF SUBDIVISION PLATS**

**9-2030 Approval Prerequisite to Plat Recordation**

No final plat of a general subdivision within the jurisdiction of the town as established in Section 9-2003 shall be recorded by the Register of deeds of Burke County until it has been approved by the proper board or official as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this section.

**9-2030.01 Plats Required**

Under G.S. 160D-804, a final plat shall be prepared, approved, and recorded according to the provisions of this chapter whenever any subdivision of land takes place. Whenever any manipulation of property lines or property boundaries takes place within the jurisdiction of the Town as established in section 9-2003 of this chapter that is exempt from these regulations as provided by section 9-2020 of this chapter, a plat displaying such change must be presented to the Subdivision Administrator. Each plat must be accompanied by a fee outlined in the Town's Fee Schedule.

## 9-2031 Minor Subdivision Approval Process

If the land to be subdivided meets the requirements of a minor subdivision as defined in section 9-2020, the subdivider will not have to follow the same procedures as for a major subdivision. The Subdivision Administrator shall approve minor subdivision plats if the subdivider is the landowner or owner as defined in Article B – Definitions. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or a representative to make applications for development approvals.

The developer of a **minor subdivision** shall obtain all required permits and provide all necessary information related to water, sewer, sediment/erosion control, stormwater control, stream assessment, wetland assessment, and watershed, historical and archeological sites.

The review process for a minor subdivision shall be adequate to protect the public interest but shall also provide minimum delay and expense to the subdivider. A preliminary plat is not required. The developer may go from a sketch plan to a final plat with the approval of the Subdivision Administrator. However, the following minor plat approval process may be used only where the subdivision meets the requirements of a minor subdivision as defined in section 9-2020.

### 9-2031.01 Procedure for Review of Minor Subdivisions

A preliminary plat shall not be required for approval for minor subdivisions. Before submission of a final plat, the subdivider shall submit to the Subdivision Administrator the sketch plan of the proposed subdivision containing the following information:

1. A sketch vicinity map showing the location of the subdivision with neighboring tracts, subdivisions, roads, and waterways;
2. The boundaries of the entire tract and the portion of the tract to be subdivided;



3. The total acreage to be subdivided;
4. The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
5. The existing street layout and right-of-way width, lot layout, and size of lots;
6. The name, address, and telephone number of the owner;
7. The name, if any, of the proposed subdivision;
8. Streets and lots of adjacent developed or platted properties;
9. The zoning classification of the tract of land and adjacent properties;

<b>9-2031.02 Review Procedure</b>
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The Subdivision Administrator shall review the sketch plan for general compliance with the requirements of this chapter, and shall advise the subdivider or his agent of the regulations of the proposed minor subdivision and the procedures to be followed in the preparation and submission of the final plat.

<b>9-2031.03 Approval of Sketch Plat by Subdivision Administrator</b>
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Upon approval of the sketch plan, the subdivider shall be advised that the final plat may be prepared as long as it conforms to the sketch plan. The approval of the sketch plan shall in no way be construed as constituting official approval of the final plat.

#### 9-2031.04 Dispositions of Copies

A copy of the sketch plan shall be retained as part of the files of the Subdivision Administrator, with the original drawing being returned to the subdivider or his authorized agent.

#### 9-2031.05 Final Plat Approval for Minor Subdivisions

- .1 The Subdivision Administrator shall review the final plat for complete compliance with the requirements outlined for final plat approval of these minor subdivision regulations. The final plat shall be complete and show all information required for final plats in section 9-3033-35, and all certifications and notarizations required in section 9-2031.07 for final plat approval of a minor subdivision.
- .2 The final plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the state by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements outlined in G.S. 47-30 as amended and the Manual of Practice for Land Surveying in North Carolina. In the event of a conflict between the provisions for plats, subdivision, and mapping requirements outlined in G.S. 47-30 as amended and the *Manual of Practice for Land Surveying* in North Carolina, the provisions as outlined in G.S. 47-50 as amended shall control.
- .3 Three copies of the final plat shall be submitted to the Subdivision Administrator. One of these shall be on reproducible material; two shall be black or blue line paper prints. Material and drawing medium for the original shall be following the *Manual of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the Burke County Register of Deeds. In the event of a conflict between material and drawing medium for the original as outlined in the *Manual of Practice for Land Surveying in North Carolina* and the requirements of the Burke

County Register of Deeds, the requirements of the Burke County Register of Deeds shall control.

- .4 The final plat shall be of a size suitable for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

**9-2031.06 Certifications to be depicted on Final Plat**

- .1 The final plat shall meet the specifications in section 9-2035. The following certificates shall appear on all three copies of the final plat:

(a) Certificate of ownership and dedication:

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Valdese, and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.	
_____	_____
Owner	Date

(b) Certificate of survey and accuracy:

Following the *Manual of Practice for Land Surveying in North Carolina*: On the face of each map prepared for recordation, there shall appear a certificate executed by the person making the survey or map including deeds any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not surveyed must be indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following form:

State of North Carolina	Burke County
I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, Book ____, Page ____, etc.) (Other); the ratio of precision as calculated by latitudes and departures is 1: ____ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____); that this map was prepared following G.S. 47-30 as amended.	
Witness my hand and seal this ____ day of _____ 20__.	
_____	
Registered Land Surveyor	Official Seal
_____	
Registration Number	

- (c) Under North Carolina General Statute 47-30, the following certificate must be included on the final plat:

State of North Carolina	Burke County
I, _____, review officer of Burke County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.	
_____	_____
Review Officer	Date

- (d) During his review of the final plat, the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the cost shall be charged to the subdivider and the plat shall not be recommended for approval until such errors have been corrected.
- (e) If the Subdivision Administrator finds that the minor subdivision final plat is in full compliance with the requirements of this article, the administrator may then sign the following certification:

I hereby certify that the minor subdivision plat hereon **has been found to comply with the minor subdivision regulations** for the Town of Valdese and is hereby approved for recording in the office of the Register of Deeds.

\_\_\_\_\_

\_\_\_\_\_

Subdivision Administrator

Date

- (f) If the Subdivision Administrator does not approve the final plat, he shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this article and resubmit the same for reconsideration by the Subdivision Administrator, or appeal to the Town Council. If the subdivider appeals to the Town Council, the Council shall review and approve or disapprove the final plat within two (2) regularly scheduled Town Council meetings after it receives the plat and recommendations of the Subdivision Administrator.

## **9-2032. Major Subdivision Approval Process**

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

### **9-2032.01 Sketch Plan for Major Subdivisions**

Prior to the preliminary plat submission, the subdivider shall submit to the Subdivision Administrator a sketch plan of the proposed subdivision for review and comment containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads, and waterways;
- (2) The boundaries of the tract and the portion of the tract to be subdivided;
- (3) The total acreage to be subdivided;
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of the land adjoining it;
- (5) The proposed street layout with approximate pavement and right-of-way width, lot layout, and size of lots;
- (6) The name, address, and telephone number of the owner;
- (7) The name of the proposed subdivision;
- (8) Streets and lots of the adjacent developed or platted properties;
- (9) The zoning classification of the tract and the adjacent properties;

## 9-2033 Preliminary Plat—Submission and Review

- .1 For every subdivision within the territorial jurisdiction established by section 9-2003 of this chapter which does not qualify for the abbreviated minor subdivision procedure, the subdivider shall submit a preliminary plat which shall be reviewed and approved by the Planning Board before any construction or installation of improvements may begin.
  
- .2 Eight copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator at least 20 days before the Planning Board meeting at which the subdivider desires the Planning Board to review the preliminary plat. The Subdivision Administrator shall review the preliminary plat for general compliance with the requirements of this chapter and any other applicable Chapters and shall advise the subdivider or his authorized agent of the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for the recording of the subdivision by the Planning Board or the Town Council as required by this Chapter.
  
- .3 Submission of the preliminary plat shall be accompanied by the fee as outlined in the Town's Fee Schedule.
  
- .4 Preliminary plats shall be of a suitable size for recording with the Burke County Register of Deeds and shall be at a scale of no less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines. (Reference to Section 9-2035.02 and 9-2035.03)



- .5 Preliminary plats shall meet the specifications in 9-2035.05. For the purposes of this ordinance, no application shall be considered to have been submitted until it is complete.
  
- .6 After having received the preliminary plat from the subdivider, the Subdivision Administrator shall submit copies of the preliminary plat and any other accompanying material to other officials or agencies concerned with new development including, but not limited to:
  - a. The district highway engineer as to proposed streets, highways, and drainage systems;
  
  - b. The County Environmental Health Director or Town of Valdese Public Works Director as to proposed water or sanitary sewer systems;
  
  - c. Any other agency or official designated by the Planning Board or other Town official.
  
- .7 The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 20 days after the Subdivision Administrator receives the preliminary plat and the comments from the appropriate agencies.
  
- .8 The Planning Board shall, in writing, recommend approval, special approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 20 days of its first consideration of the plat.
  
- .9 If the Planning Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes, and transmit two copies of the plat to the Town Council with its recommendation.

- .10 If the Planning Board recommends special approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.
- .11 If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Town Council, and return the remaining copies of the plat and its recommendation to the subdivider.
- .12 If the Planning Board does not make a written recommendation within 30 days after its first consideration of the plat, the subdivider may apply to the Town Council for approval or disapproval.
- .13 If the Planning Board recommends disapproval of the preliminary plat, the subdivider may request the preliminary plat be presented to the Town Council at its next regularly scheduled meeting for consideration.
- .14 If the Town Council approves the preliminary plat, such approval shall be noted on two plats. One plat shall be retained by the Town Council and one copy shall be returned to the subdivider. If the Town Council approves the preliminary plat with conditions, approval shall be noted on two plats along with a reference to the conditions. One plat along with the conditions shall be retained by the Town Council and one preliminary plat along with the conditions shall be returned to the subdivider. If the Town Council disapproves of the preliminary plat, the reasons for such disapproval shall be specified in writing. One plat and the reasons shall be retained by the Town Council and one plat shall be returned to the subdivider.

**9-2033.01 Information to be Contained or Depicted on the Preliminary and Final Plats**

The preliminary and final plats shall depict or contain the information indicated in the following table. An “X” indicates that the information is required:

INFORMATION	Preliminary	Final
Title Block Containing <ul style="list-style-type: none"> <li>▪ Property designation</li> <li>▪ Name of Owner</li> <li>▪ Location (including township, county, and state)</li> <li>▪ Date or dates survey was conducted and plat prepared</li> <li>▪ A scale of drawing in feet per inch listed in words or figures</li> <li>▪ A bar graph.</li> <li>▪ Name, address, registration number of the registered land surveyor</li> </ul>	X	X
Name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area.	X	X
Corporate limits, township boundaries, county lines if on the subdivision tract	X	X
Names, addresses, and telephone numbers of all owners, registered land surveyors, land planners, architects, landscape architects, and professional engineers responsible for the subdivision	X	X
Registration numbers and seals of professional engineers	X	X
The boundaries of the tract, or portion thereof, to be subdivided, distinctly, and accurately represented with all bearings and distances shown.	X	X
North arrow and orientation	X	X
The names of owners of adjacent properties	X	X
The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands.	X	X
The names of any adjoining subdivisions of record or proposed and under review.	X	X

The zoning classifications of the tract to be subdivided and adjoining properties.	X	X
Existing property lines of the tract to be subdivided and adjoining properties.	X	X
Existing buildings or other structures watercourses, railroads, bridges, culverts, storm drains on the land to be subdivided and land immediately adjoining.	X	X
Proposed lot lines, lot and block numbers, and approximate dimensions	X	X
Lots numbered consecutively throughout the subdivision.		X
Wooded areas, marshes, swamps, rock outcrops, ponds, lakes, streams, streambeds, and any other natural features affecting the site.	X	X
<ul style="list-style-type: none"> <li>▪ The exact location of the flood hazard, floodway, and floodway fringe from the community’s FEMA maps</li> <li>▪ Base flood elevation data for subdivisions that contain at least five (5) lots or fifty acres, whichever is less</li> </ul>	X	X

STREET INFORMATION	Preliminary	Final
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way locations and dimensions	X	X
Pavement widths	X	X
Design engineering data for all corners and curves	X	X
Typical street cross-sections	X	X
Street names	X	X
Street maintenance agreement following Section 9-2050.04 and 9-2050.05 of this chapter.		X
<p>Type of street dedication; all streets must be designated “public” or “private.”</p> <p><i>Where public streets are involved which will be dedicated to the Town, the subdivider must submit all street plans to the Subdivision Administrator for approval before preliminary plat approval.</i></p> <p><i>Where public streets are involved which will not be dedicated to the Town, the subdivider shall supply the Subdivision Administrator with all the appropriate documentation for NCDOT District Highway Office review and approval.</i></p>	X	X

Where streets are to be dedicated to the public but have not been accepted into the Town or the state system before lots are sold, a statement explaining the status of the streets is following Section 9-2050.05 of this chapter.		X
If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the NCDOT, Division of Highways' Manual on Driveway Regulations.		X
Evidence that the subdivider has obtained such approval	X	X

<b>OPEN/COMMON/PUBLIC SPACE</b>	<b>Preliminary</b>	<b>Final</b>
Location of all easements	X	X
Trails	X	X
Natural buffers	X	X
Pedestrian or bicycle paths	X	X
Parks and recreation areas with specific type indicated	X	X
School sites	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purposes of each stated	X	X
The future ownership of recreation and open space lands.	X	X
<i>Dedication or reservation for public use to the governmental body, for owners to duly constituted homeowners' association, or for tenants remaining in subdivider's ownership.</i>		

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

<b>SITE CALCULATIONS</b>	<b>Preliminary</b>	<b>Final</b>
Acreage in the total tract to be subdivided	X	X
Acreage in parks and recreation areas, and other non-residential uses	X	X
Total number of parcels created	X	X
The acreage of each lot in the subdivision	X	X

Linear feet in streets	X	
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the US Department of Interior's National Register of Historic Places	X	X
Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line (with errors of closure), block line, and building line, whether curved or straight and including true north point. This should include the radius, central angle, point of tangency, tangent distance and arcs, and chords of all curved streets and curved property lines. All dimensions should be to the nearest one-tenth (1/10) of a foot and angles to the nearest minute.		X
The accurate location and description of all monuments, markers, and control points		X
A copy of any proposed deed restrictions or similar covenants. Such restrictions are mandatory when private recreation areas are established	X	X
A copy of the erosion control plan is submitted to the appropriate authority if such a plan is required.	X	X
A topographic map with contour intervals of no greater than 20 ft. at a scale of no less than 1:24,000.	X	
All certifications required in section 9-2035.04		X
Any other information considered by either the subdivider, Planning Board or Town Council to be pertinent to the review of the plat.	X	X

Plats not illustrating or containing the above-listed data shall be returned by the Subdivision Administrator to the subdivider or his authorized agent for completion and resubmission.

**Section 9-2034 FINAL PLAT APPROVAL PROCESS**

**9-2034.01 Improvements Installation**

Upon the approval of the preliminary plat by the Planning Board and Town Council, the subdivider may proceed with the preparation of the final plat and install the required improvements or arrange for the installation of the required improvements following the approved preliminary plat and the requirements of this chapter.

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

**9-2034.02 Town Participation and Costs**

The Town at the election of the Town Council may participate in the costs of providing water and sewer services and in the cost of paving streets and sidewalks, including curb and guttering, following the plans shown on the approved plat. If the subdivider desires Town participation, a written request should be made to the Town before the installation of any improvements.

**9-2034.03 Performance Guarantee**

.1 Following approval of the preliminary plat by the Town Council, the subdivider may proceed with the preparation of the final plat and the installation of or arrangement for required improvements following the approved preliminary plat and the requirements of this chapter. Before approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein.



No final plat will be accepted for review by the Planning Board or Town Council unless accompanied by a written notice by the Town Manager and/or Town Engineer acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; such portion shall conform to all requirements of this chapter.

.2 instead of requiring the completion, installation, and dedication of all improvements before final plat approval, the Town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once the said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Town Council if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide, subject to the approval of Town Council, either one or a combination of the following “performance Guarantee” in G.S. 160D-804.1:

(a) Surety performance bond(s). The subdivider shall obtain a performance bond(s) from a surety bonding company authorized to do business in North Carolina. The bonds shall be payable to the Town and shall be in an amount equal to 125% of the entire cost, as estimated by the subdivider and approved by the Town Council, of installing all required improvements. The duration of the bond(s) shall be until the improvements are accepted by Town Council. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

(i) Letter of Credit. An irrevocable letter of credit or other instruments readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository

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

- (b) **Equivalent Security.** The subdivider shall provide a form of guarantee that provides equivalent security to a surety bond or letter of credit. The amount of deposit shall be equal to 125% of the cost, as estimated by the subdivider and approved by Town Council, of installing all required improvements. The reasonably estimated cost of completion shall include one hundred percent (100%) of the costs for labor and materials necessary for completion of the required improvements. Where applicable, the costs shall be based on unit pricing. The additional twenty-five percent (25%) allowed under this subdivision includes inflation and all costs of administration regardless of how such fees or charges are denominated.

If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with Town Council an agreement between the financial institution and himself guaranteeing the following:

- i) That the escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the subdivider in any other matter during the term of escrow; and
- ii) That in case of a failure on the part of the subdivider to complete said improvements, the financial institution shall, upon notification by the Town Council, and submission by Town Council to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to

the Town the funds estimated to complete the improvements, up to the full balance of the escrow account or deliver to the Town any other instrument fully endorsed or otherwise made payable in full to the Town.

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

.4 Extension - If the current performance guarantee is likely to expire before completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued if the developer has demonstrated reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee. Such extension shall only be for duration necessary to complete. If a new performance guarantee is issued, the amount shall not exceed 125% of the total cost of all incomplete improvements.

.5 Release - The Town Council may release a portion of any security posted as the improvements are completed and recommended for approval by the Planning Board. Within 30 days after receiving the Planning Board recommendation, the Town Council shall approve said improvements. If the Town Council approves said improvements, and then it shall immediately release any security posted.

.6 Upon default, meaning failure on the part of the subdivider to complete the required improvements on time as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town the amount needed to complete the improvements based on an engineering estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the subdivider any funds not spent in completing the improvements.

#### **9-2034.04 Defects Guarantee**

- .1 The Town Council shall require a bond guaranteeing utility taps, curbs, gutters, street pavement, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one year. If said improvements are constructed at different times, then said guarantee shall continue until one year from the date of acceptance of the improvement last constructed. The amount of the bond shall be determined by the Town Manager or consulting engineer and shall be in cash or made by a surety company authorized to do business in North Carolina.
  
- .2 The Town Council shall require the subdivider to submit a letter to the Town Clerk in which he agrees to maintain all improvements and any ditch which has been dug in connection with the installation of such improvements. The obligation to maintain all improvements and ditches shall be binding to the subdivider for one year following the acceptance of the improvements by the Town.

#### **9-2034.05 Final Plat Review**

No final plat will be accepted for review by the Planning Board or Town Council unless accompanied by written notice by the Staff Planner acknowledging compliance with this Chapter.

## **SECTIONS 9-2035 THE FINAL PLAT**

The final plat may be approved for only that portion of the preliminary plat, which the subdivider proposes to record and develop; however, all properties on the final plat shall conform to all requirements of this chapter.

No final plat shall be approved unless and until the subdivider shall have installed, in that area represented on the final plat, all improvements required by this chapter (or shall have guaranteed their installation as provided for in Section 9-2034.03 of this chapter and all permanent reference points described in Article D of this chapter).

### **9-2035.01 Plats Submitted**

The subdivider shall submit five (5) copies of the final plat, so marked, to the Subdivision Administrator not less than twenty (20) days before the Planning Board meeting at which the approval of the plat is to be considered. One additional copy shall be prepared under G.S. 47-30 and shall bear all the required certifications outlined in Section 9-2035.04 of this chapter, at which time it will be considered for approval.

The reproducible drawing shall be given to the Subdivision Administrator not later than the date of the Planning Board meeting at which approval is requested. The plat shall be submitted not more than twelve (12) months after the date on which the preliminary plat was approved; provided, however, a written extension of this time limit may be granted by the Planning Board on or before the first anniversary of the approval.

### **9-2035.02 Size of Plat and Scale**

Final plats shall be of a size suitable for recording with the Burke County Register of Deeds. Where the size of land areas or suitable scale to assure legibility requires, maps may be placed on two or more sheets with appropriate match lines. Final plats shall be drawn at a scale of one (1) inch equals two hundred (200) feet, or greater.

**9-2035.03 Plats Prepared**

The final plat shall be prepared by a surveyor licensed and registered to practice in the State of North Carolina. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of Section 47-30 of the General Statutes of North Carolina.

**9-2035.04 Certifications Required**

The following signed certificates shall appear on the reproducible copy of the final plat which is submitted to the Planning Board by the subdivider:

A. CERTIFICATION OF OWNERSHIP AND DEDICATION

I hereby certify that I am/we are the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Valdese and that I/we hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

\_\_\_\_\_

Owner

\_\_\_\_\_

Date

(Notary Statement)

B.

CERTIFICATE OF SURVEY AND ACCURACY

In accordance with the *Manual of Practice for Land Surveying in North Carolina*: On the face of each map prepared for recordation, there shall appear a certificate executed by the person making the survey or map including deeds any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by latitudes and departures. Any lines on the map which were not surveyed must be indicated on the map and a statement included in the certificate revealing the source of the information. The certificate shall take the following form:

State of North Carolina	Burke County
I, _____ certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book __, Page __, Book __, Page __, etc.) (Other); the ratio of precision as calculated by latitudes and departures is 1: __ (that the boundaries not surveyed are shown as broken lines plotted from information found in Book __, Page __); that this map was prepared following G.S. 47-30, as amended.	
Witness my hand and seal this ____ day of _____ 20__.	
_____	
Registered Land Surveyor	Official Seal
_____	
License or Registration Number	

C. CERTIFICATE OR APPROVAL OF THE DESIGN AND  
INSTALLATION OF UTILITIES, AND OTHER REQUIRED IMPROVEMENTS

I hereby certify that all required improvements have been installed acceptably and according to the Town of Valdese specifications and standards in the Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to Town of Valdese have been received.

\_\_\_\_\_  
Valdese Town Manager

\_\_\_\_\_  
Date

- D. If the Planning Board approves the final plat, such approval shall be indicated on each copy of the plat by the following signed certificate:

CERTIFICATION OF APPROVAL BY THE PLANNING BOARD

The Town of Valdese Planning Board hereby approves the final plat for the  
\_\_\_\_\_ Subdivision.

\_\_\_\_\_  
Chairman, Town of Valdese Planning Board

\_\_\_\_\_  
Date



- E. If the Town Council approves the final plat, such approval shall be shown on each recordable plat by the following signed certificate:

CERTIFICATION OF APPROVAL BY THE TOWN COUNCIL

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Ordinance for the Town of Valdese, North Carolina and that this plat has been approved by the Town Council for recording in the Office of the Register of Deeds of Burke County.

\_\_\_\_\_  
Town Clerk, Town of Valdese

\_\_\_\_\_  
Date

F.

CERTIFICATE OF PRIVATE STREET DESIGNATION

All roads in this subdivision are hereby declared private and shall not be maintained by the Town of Valdese or the North Carolina Department of Transportation. The maintenance of all streets and roads in this subdivision shall be the responsibility of \_\_\_\_\_, and it shall be the responsibility of \_\_\_\_\_ to bring the roads up to the standards of the North Carolina Department of Transportation Secondary Roads Council or the Town of Valdese before any private streets or roads on this plat are included, at any time after the approval of this plat, into the North Carolina State Maintained Road System or ~~into~~ the Town's municipal system.

\_\_\_\_\_

Subdivider or Agent

G.

CERTIFICATE OF REVIEW OFFICER APPROVAL

State of North Carolina	Burke County
-------------------------	--------------

I, \_\_\_\_\_, review officer of Burke County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

_____	_____
Review Officer	Date

<b>9-2035.05 Contents Required</b>
------------------------------------

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

## **9-2036 REVIEW PROCEDURE**

Final plats shall be reviewed according to the following procedure:

### **9-2036.01 Planning Board Review**

The Planning Board shall approve or disapprove the final plat within thirty (30) days of its first consideration. During its review of the final plat, the Planning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected.

If the Planning Board disapproves of the final plat, the Subdivision Administrator shall state in writing its reasons for such action, specifying the provisions of this chapter with which the plat does not comply. One copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval and one copy shall be retained by the Planning Board as part of its proceedings. If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter and resubmit same for reconsideration by the Planning Board.

### **9-2036.02 Town Council Review**

Upon approval of the final plat by the Planning Board, the Town Council shall review and approve or disapprove the plat at its next regularly scheduled meeting, which takes place at least fifteen (15) days after the Planning Board submits its recommendation. This applies only if the Planning Board recommendation is submitted at least fifteen (15) days before the Town Councils' regularly scheduled meeting.

If the final plat is disapproved by the Town Council, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this chapter with which the final plat does not comply. One (1) copy of such reasons shall be retained by the Town Council as a part of its proceedings, one (1) copy shall be transmitted to the Subdivision Administrator, and one (1) copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this chapter and resubmit same for consideration by the Planning Board as identified in paragraph 9-2036.01.

**9-2036.03. Disposition of Copies**

Upon action by the Town Council on the final plat, the Subdivision Administrator shall retain one copy and return the reproducible copy and any other copies to the developer. The reproducible plat shall be filed with the Register of Deeds. One (1) print shall be retained by the Subdivision Administrator.

**9-2036.04 Recording the Final Plat**

The subdivider shall file the approved major subdivision final plat with the Register of Deeds of Burke County for recording within sixty (60) days after the date of the Town Council approval. Otherwise, such approval shall be null and void. The subdivider shall file the approved minor subdivision final plat with the Register of Deeds of Burke County for recording within sixty (60) days after the date of the Subdivision Administrator approval. Otherwise, such approval shall be null and void.

**9-2036.05 Re-subdivision Procedures**

For any re-platting or re-subdivision of land, the same procedures, rules, and regulations shall apply as prescribed herein for an original subdivision. Lot sizes may, however, be

varied on an approved plan after recording, provided that (A) no lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan; (B) drainage, easements, or rights-of-way shall not be changed; (C) street alignment and block sizes shall not be changed; (D) the property line between the back of the lots shall not be changed; (E) the rear portion of lots shall not be subdivided from the front parts; and (F) the character of the area shall be maintained.

<b>9-2036.06 Recombination of Land</b>
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1. Any plat or any part of any plat may be voided by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be voided.
2. Such instruments shall be approved by the same agencies as approved on the final plat. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets, or alleys.
3. Such instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.
4. When lots have been sold, the plat may be voided in the manner provided in subsections (1) through (3) of this section by all owners of the lots in such plat joining in the execution of such writing.

**ARTICLE D**

**INSTALLATION OF PERMANENT REFERENCE**

**POINTS AND IMPROVEMENTS**

**9-2040. PERMANENT REFERENCE POINTS**

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

- (1) SUBDIVISION CORNER TIE:** At least one corner of the subdivision shall be designated by course and distance (tie) as required by standards of practice outlined in G.S. 47-30.
- (2) MONUMENTS:** Within each block of a subdivision at least two (2) Monuments designed and designated as Control Corners shall be installed. Installation of monuments shall be following the standards of practice outlined in G.S. 47-30.
- (3) PROPERTY MARKERS:** A steel or wrought iron pipe, solid iron pin, rebar, or the equivalent not less than one-half (1/2) inches in diameter and at least eighteen (18) inches in length shall be set at all property corners or offset in the property line if the property corner is inaccessible (center of creek or street, etc.), except those located by monuments. A marker shall also be set at a point of curve, point of intersection, property corner, point of tangency along street right of way, and reference point unless a Monument is placed at said points. Additional Markers shall be placed where necessary.

**9-2040. 01 Public Sites and Open Spaces**

In subdividing property, due consideration should be given by the subdivider and the Planning Board to the designation of suitable sites for parks, schools, and other uses. Such provision should be indicated on the sketch plan so that it may be determined when and in what manner such areas will be required.

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

Streets shall be designed and walkways dedicated to assuring convenient access to adjacent parks, playgrounds, schools, and other places of public assembly. Dedicated walkways shall not be less than ten (10) feet in width.

### **9-2040. 03 Restrictions on Land Subject to Flooding**

Lots that are subject to flooding shall not be established in subdivisions to create residential building sites except as herein provided. Where the developer proposes to provide a levee or raise the floor elevations above the flood level, an engineering report shall accompany the subdivision application.

- (1) If there is any watercourse of any type running through or within one hundred and fifty (150) feet of the property proposed for subdividing, the prospective subdivider shall furnish reasonable evidence to the Planning Board that residential lots within the subdivision will not be flooded.
- (2) No proposed residential building lot shown that is wholly subject to flooding shall be approved.
- (3) The Town of Valdese will utilize the most current Flood Insurance Rate Map (FIRM).



**9-2041. DESIGN AND STANDARDS AND REQUIRED IMPROVEMENTS**

Street requirements for subdivisions shall meet the current Minimum Construction Standards of North Carolina Department of Transportation, Division of Highways, and all of the requirements of this chapter. In the case of conflict in requirements, the more stringent shall apply except in the case of specific exceptions allowed for hillside subdivisions.

**ARTICLE E**

**REQUIRED IMPROVEMENTS, DEDICATION,  
RESERVATION AND MINIMUM STANDARDS OF DESIGN**

**9-2050 General Requirements**

Each major subdivision shall contain the improvements specified in this article, which shall be installed following the requirements of this chapter and paid for by the subdivider unless other means of financing are specifically stated in this chapter. The land shall be dedicated and reserved in each major subdivision as specified in this article. Each major subdivision shall adhere to the minimum standards of design established by this article.

**9-2050.01 Conformity to Existing Maps or Plans**

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

**9-2050.02 Continuation of Existing Roads**

The proposed road layout shall be coordinated with the existing road system of the surrounding area and, where possible, existing principal roads shall be extended.

### **9-2050.03 Access to Adjacent Properties**

Where, in the opinion of the Planning Board, it is desirable to provide access to an adjoining property, proposed roads shall be extended by dedication to the boundary of such property and a temporary turnaround shall be provided.

### **9-2050.04 Private Streets**

Private streets may be allowed in subdivisions, 10-acre Exempt Developments and Gated Subdivisions provided they meet minimum construction standards of NC Department of Transportation Subdivision Roads manual, the Town of Valdese subdivision general requirements and minimum standards of design, and the North Carolina State Fire Code. The Town will not maintain any private street. The Town will not accept into its street maintenance system any private street that does not meet the standards listed in this chapter.

### **9-2050.05-Subdivision Street Disclosure Statement**

- A. All streets shown on the final plat shall be designated following G.S. 136-102.6 as either public or private. The designation of the streets as public shall be conclusively presumed as an offer of dedication to the public.
- B. Where streets are dedicated to the public but not accepted into the Town's municipal system, before lots are sold, a statement explaining the status of the street shall be included in the final plat.
- C. For all private streets, a disclosure statement naming the responsible party for street maintenance shall be included on the final plat per 9-2035.04.F.

**9-2050.06 Large Tracts and Parcels**

Where land is subdivided into lots greater than one (1) acre and less than ten (10) acres, such parcels shall be arranged to allow for the opening of future roads and logical further re-subdivision.

**9-2050.07 Lots**

All lots shall front upon a public or private street. Every lot must front for at least thirty-five (35) feet on a public or private street. Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curbed street lines.

**9-2050.07.1 Flag Lots**

The Planning Board may approve flag lots in exceptional cases where it is impractical to serve an isolated lot by a public street. The frontage of the flag lot shall have a minimum width of thirty-five (35) feet providing an access strip between two (2) regular lots to the isolated building site. The area of such strip shall be excluded in computing the lot area and width, and the length of said strip shall not exceed one hundred (100) feet. The lot must be able to meet all dimensional and size requirements of the designated zoning district.

**9-2050.08-Reserved**

### **9-2050.09 Contour Maps**

A contour map shall be provided if requested by the Subdivision Administrator. The contour interval required will depend upon topographic and drainage characteristics and shall be specified by the Subdivision Administrator.

### **9-2050.10 Street Names**

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

## 9-2051. Design Standards

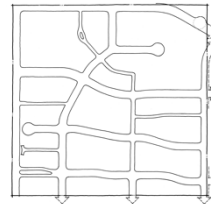
The following design standards shall be considered minimum requirements unless the subdivision qualifies as a Hillside Subdivision (See Section 9-2054) or the Cluster Design Open Space option is used (See Section 9-2053). Streets or roads of types not listed in the following standards, such as arterials, shall meet the requirements of the Thoroughfare Plan, the NCDOT, and the Planning Board.

### 9-2051.01 Public Streets

All streets shall be designed, within natural limitations of the land, to form part of an interconnected pattern as illustrated below:



**A**



**B**

<b>A</b>	A common subdivision showing a poor street layout due to few connections and many dead ends.
<b>B</b>	Better street layouts showing multiple links and a gridded network of streets.

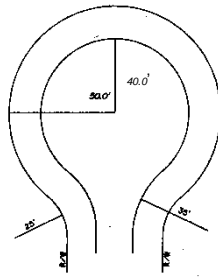
#### **A. Right of Way Widths.**

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

TYPE OF STREET	MINIMUM RIGHT-OF-WAY (FEET)
(1) Arterial	100
(2) Collector Streets - Minor	60
(3) Local or Minor (Residential Streets)	50
(5) Cul-de-sacs*	100
(6) Alleys**	20

\* The distance from the edge of the pavement of the cul-de-sac to the right-of-way line shall not be less than the distance from the edge of the pavement to the right-of-way line on the street into the cul-de-sac

\*\* Only allowed with a Special\_Use Permit in a Planned Unit Development



**B. Pavement Widths.**

Width for local roads and streets shall be as follows:

ROAD TYPE	PAVEMENT WIDTH WITH CURB AND GUTTER	PAVEMENT WIDTH WITHOUT CURB AND GUTTER
Residential Collector	30	24
Local or Minor (Residential Streets)	22	22
Cul-de-sac	80	80
Alley*	16	16

\* Only allowed with a Special Use Permit in a Planned Unit Development



**C. Grades.**

Street grades shall be as follows:

<b>Street Type</b>	<b>Maximum Grade</b>	<b>Minimum Grade without Curb &amp; Gutter</b>	<b>Minimum Grade with Curb and Gutter</b>
Local or Minor	12%	0.5%	1%
Collector	9%	0.5%	1%
Alley*	12%	0.5%	1%
Cul-de-sac	5%	1%	1%

\* Only allowed with a Special Use Permit in a Planned Unit Development

1. Grades approaching intersections shall not exceed five percent (5%) for a distance of not less than one hundred (100) feet from the centerline of said intersection.

**D. Horizontal Curves.**

Where a centerline deflection angle occurs, a circular curve shall be introduced, having a centerline radius of not less than the following:

<b>Street Type</b>	<b>Radius (in feet)</b>
Collector Streets	230
Local or Minor	150
Alley*	35

\* Only allowed with a Special Use Permit in a Planned Unit Development

**E. Vertical Curves.**

All vertical curves shall have such length as necessary to provide safe sight distance based on NCDOT Minimum Construction Standards for Subdivision Roads.

**F. Intersections.**

Streets shall be laid out as follows:

1. Streets shall intersect as nearly as possible at right angles and no street shall intersect at less than seventy-five (75°) degrees.
2. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
3. Intersections with a major street or highway shall be at least eight hundred (800) feet apart. This requirement may be waived by the Planning Board if such a requirement would prevent a property owner fronting on a major street or thoroughfare from having access to such a major street or highway.

**H. Cul-de-sacs.** Permanent dead-end streets are strongly discouraged except when required by extreme topography, water, other natural features. When permitted, no dead-end street shall be longer than 1200 feet or provide access to more than twelve lots. Measurement shall be from the centerline of the last intersection of a through the street to the center of the turnaround of the cul-de-sac. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid extension of an important street.

**I. Marginal Access Streets.** Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. When reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

**J. Nonresidential Streets.** The subdivider of a nonresidential subdivision shall provide streets following the NCDOT Division of Highways' Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, and the standard of this chapter, whichever are stricter regarding each particular item. Cross-access between adjacent commercial subdivisions, existing and new, is strongly encouraged wherever possible.

**K. Access Points.** Subdivisions that front on more than one public road shall provide a minimum of one access point on at least two (2) public roads. Exceptions may be made due to extreme topography, water, and other natural features. If a subdivision has more than one access point on the same public road, those access points must be separated by at least 300 feet or as many feet as possible based on the property's road frontage, topography, water, and other natural features affecting the property.

## 9-2051.02 Blocks

The maximum and minimum length and width of blocks shall be as follows:

- A. Length.** Block lengths shall not exceed twelve hundred (1200) feet nor be less than four hundred (400) feet. Where deemed necessary by the Planning Board, a pedestrian path easement of at least ten (10) feet in width may be required.
  
- B. Widths.** Blocks shall be wide enough to allow two tiers of lots of minimum depth, except where fronting on major streets or prevented by topographic conditions or adjoining a water area, in which case a single tier of lots may be approved.
  
- C. Block Numbers.** Block numbers shall conform to the Town street numbering system, if applicable.

## **9-2052. Lot Designs**

All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the zoning district. It is not sufficient merely for the average lot to meet zoning requirements.

### **9-2052.01 Lots**

The size, shape, and orientation of lots shall reflect due consideration for topography and drainage. Lots shall conform to the requirements of this Chapter and, also shall conform to the following provisions.

### **9-2052.02 Arrangement**

All lots shall front upon a public or private street. Every lot must front for at least thirty-five (35) feet on a public or private street. Insofar as practical, side lot lines shall be at right angles to straight lines or radial to curved street lines. Double frontage lots shall be avoided wherever possible except where marginal access streets will be provided as per 9-2051.01 I.

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

Lake frontage lots shall have a minimum width of one hundred (100) feet at the front building line. All other lots within four hundred and sixty feet (460) of the official pond level of the lakes within Burke County shall have a minimum width of one hundred (100) feet at the front building line. Lots shall also adhere to Rule 15A NCAC 02B.0243 by the NC Division of Water Resources entitled Catawba River Basin: Protection and Maintenance of Existing Riparian Buffers.

### **9-2052.04 Area**

All lots shall have an area that complies with the requirements of the zoning district in which the lot is located.

### **9-2052.05 Width**

All lots shall have a minimum width that complies with the requirements of the zoning district in which the lot is located.

### **9-2052.06 Depth**

All lots shall have a minimum mean depth that complies with the requirements of the zoning district in which the lot is located.

### **9-2052.07 Orientation of Lot Lines**

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

### **9-2052.08 Building Setback Lines**

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

### **9-2052.09 Easements**

- (1) Utility and drainage easements centered on rear or side lot lines shall be provided where necessary and shall be at least twenty (20) feet in width, and ten (10) feet on either side of the property lines. A greater width may be required for the installation and maintenance of the facility.
- (2) Pedestrian path easements of ten (10) feet in width shall be provided when such area is required by the Planning Board.
- (3) Where a subdivision is or will be traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and an additional width of twelve and one-half (12.5) feet from said lines of the watercourse for the construction and maintenance.



**9-2052.11 Storm Water Drainage**

- (1) The subdivision must meet the latest adopted requirements specified by the state sediment and erosion control program, Town of Valdese watershed protection ordinance, Phase II Storm Water Ordinance, national flood insurance program, US Army Corp of Engineers regulations (Section 404 of the Clean Water Act), and any other jurisdictional requirements under local, State, and Federal rules or laws. Terms used in this section are as defined in the **North Carolina Erosion and Sediment Control Planning and Design Manual**.
- (2) Where curbs and gutters are constructed, they shall be under the standards of the North Carolina Department of Transportation’s “Guidelines for Curb Cuts and Ramps for Handicapped Persons.”
- (3) No surface water shall be channeled or directed into a sanitary sewer.
- (4) Where feasible, the subdivider shall connect the stormwater drainage system to an existing storm drainage system.
- (5) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
- (6) Surface drainage courses shall have side slopes of at least three (3) feet or horizontal distance for each one (1) foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each one hundred (100) feet of horizontal distance.

- (7) Where a subdivision is or will be traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse, and an additional width of twelve and one-half (12.5) of the said lines of the watercourse for the construction and maintenance
- (8) Where storm sewers, drains, and structures are installed, they shall be of a size and type and location as required by this chapter, Town of Valdese standards, and good engineering practices. The minimum size of storm drains shall be fifteen (15) inches in diameter. The design flow for storm sewer collectors shall be at least a ten (10) year storm frequency and the design flow shall be at a twenty-five (25) year storm frequency for culverts and storm sewers crossing streets. Storm drains carrying water from the street right-of-way shall be placed along lot lines where feasible and shall extend for a distance of thirty-five (35) feet minimum back of the building line. All off-street storm drains or extensions shall be installed initially by the subdivider and the responsibilities thereafter shall be transferred to the purchaser(s) (or property owners association if applicable). Such extensions shall have permanent easements centered with the pipe. The utility easement shall be of width determined necessary for maintenance purposes by the Town of Valdese Public Works Department based upon enclosure depth, topography, and location of existing and proposed improvements, but no less than 20 feet. The Town shall have a right to enter for maintenance purposes where it determines that the public health, safety, or general welfare constitutes a public necessity for such maintenance. However, the Town does not otherwise maintain off-street storm drains. Where easements are required, they shall be noted on the Final Plat.
- (9) All pipes in street rights-of-way shall be constructed of N.C. Department of Transportation approved plastic, reinforced concrete, corrugated aluminum, or aluminized steel.
- (10) Culverts shall be provided to accommodate all-natural water flow and shall be sufficient length to permit a full-width roadway and the required slopes. Cross drains shall be built on straight line and grade shall be laid on a firm base, but not on rock. Pipes shall be laid with the spigot pointing in the direction of the flow and with the end filled and matched to provide tight joints and a smooth uniform invert. They shall be placed at a sufficient depth below the roadbed to avoid dangerous pressure of impact, and in no case shall the top of the pipe be less than one foot (1') below the roadbed.

- (11) Where off-site runoff is to be conveyed through the subdivision, the design of pipes and/or channels shall be based on the full build-out of the off-site drainage area(s) based on current zoning.
- (12) Where stormwater is released from a storm drainage system, whether onto the developed tract or to an off-site tract, the water shall be released in a non-erosive manner such that downstream properties are not damaged. Such protection shall be designed based on the design storm applicable to the storm drainage system.

<b>9-2052.12 Water and Sewer Utilities</b>
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- A. All lots within new major subdivisions shall connect to the Town water system and sanitary sewer system if available. These utilities shall be installed at the subdivider's expense.
- B. Water and sanitary sewer systems shall be designed by a qualified North Carolina registered professional engineer. System design and construction shall be per this Chapter, Town of Valdese standards, and good engineering practices, as well as with all applicable local, state, and federal rules and laws.
- C. All easements for water and sewer lines to be installed outside the public street right-of-way shall have a minimum width of twenty-five (25) feet, centered with the pipeline.

<b>9-2052.13 Pedestrian Walkways</b>
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- A. All major subdivisions are encouraged to incorporate pedestrian facilities. These facilities include, but are not limited to, sidewalks, walking trails, paths, bicycle lanes, and greenways. New facilities shall connect to existing facilities if there are any present.
- B. All sidewalks shall conform to all current Americans with Disabilities Act (ADA) standards. All sidewalks shall be placed in the right-of-way.

## **9-2053 Cluster Development and Planned Unit Development**

The purpose of providing for the clustering of development and the resultant open space is to offer recreation at or near each home, to improve the appearance of the area through the preservation of green space, to counter the undesirable effects of urban congestion and monotony, and to encourage group participation in community activities by all ages on a local block or neighborhood basis. This assists in building community and personal stability and security. Local parks, recreation areas, and other spaces in a planned neighborhood pattern are intended to conserve areas of natural beauty, encourage cooperative relationships between neighbors, and help promote public health, safety, and general welfare.

The purpose of this Section is to provide an alternative subdivision procedure for single-family use; or, governed by the minimum lot size requirements of this Subdivision Ordinance (see Section 9-2052). This is to be accomplished by permitting the density of dwelling units contemplated by the minimum lot size requirements to be maintained on an overall basis when applied to specific tracts of land and thereby provide for desirable and proper open space. Cluster subdivisions shall follow requirements for planned unit developments in the Town of Valdese Zoning Ordinance (see Section 9-3111 and 9-3112).

## **9-2054 Hillside Subdivisions**

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

### **9-2054.01 Widths**

The public or private street shall have a right-of-way of not less than fifty (50) feet except that a right-of-way of forty (40) feet will be permitted if a reduced width is essentially unavoidable and is approved by the Planning Board.

### **9-2054.02 Cul-de-sacs**

Permanent dead-end streets are strongly discouraged except when required by extreme topography, water, or other natural features. The required turnaround on a dead-end private street in a hillside subdivision shall have a roadway diameter of not less than fifty (50) feet and a right-of-way diameter of not less than sixty (60) feet. If the street length does not exceed three hundred (300) feet and if construction difficulties will not permit a turnaround, the use of a “Y” or a “T” or other turning space of a design such as will allow a vehicle with a wheelbase of at least twenty (20) feet to complete a turning movement with a maximum of one backing movement, may be permitted if approved by the Planning Board.

### **9-2054.03 Grading**

Grading will not be required for the full right-of-way in hillside subdivisions if the Planning Board determines that full grading will prevent convenient access to adjoining property or will destroy the natural beauty of the site by excessive cut and fill. However, where the slope extends beyond the right-of-way, slope easements shall be added where needed. The easement shall extend ten (10) feet beyond the top of the cut where cut exceeds fifteen (15) feet vertically.

#### **9-2054.04 Street Grades**

In hillside land subdivisions, maximum street grades permitted shall be fourteen percent (14%) unless the Planning Board determines that a steeper grade is essentially unavoidable and would not create excessive danger.

#### **9-2054.05 Street Improvements for Hillside Subdivisions**

Hillside Subdivisions shall comply with the following standards for Pavement:

Pavement widths shall not be less than specified in Section 9-2051.1 and 9-2050.04 except where the average cross slope is sixteen percent (16%) or greater, pavement widths may be reduced with Planning Board approval as follows:

- A. Where the average cross slope is between sixteen percent (16%) and thirty-three percent (33%), minimum pavement width may be reduced to eighteen (18) feet.
- B. Where the average cross slope is greater than thirty-three percent (33%), no street shall be constructed.
- C. Where pavement width is reduced, on-street parking shall not be permitted.

#### **9-2054.06 Hillside Lots**

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